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भारत का राजपत्र

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म. 13] नई दिल्ली, मार्च 20, —मार्च 26, 2011, शनिवार/फाल्गुन 29, 1932—चैत्र 5, 1933
No. 13] NEW DELHI, MARCH 20,—MARCH 26, 2011, SATURDAY/PHALGUNA 29, 1932—CHAITRA 5, 1933

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृष्ठक संकलन के रूप में रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II — खण्ड 3 — उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सार्विधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(राजस्व विभाग)

(सीमा-शुल्क एवं केन्द्रीय उत्पाद शुल्क मुख्य आयुक्त का
कार्यालय)

[सं. 01/2011, सीमा-शुल्क (एन.टी.)]

कोयंबतूर, 25 फरवरी, 2011

का.आ. 810.—सीमा-शुल्क अधिनियम, 1962 की धारा 152 खण्ड (ए) के अंतर्गत जारी भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली की अधिसूचना सं 14/2002 कस (एन.टी.) दिनांक 7-3-2002 के साथ पठित यथा संशोधित अधिसूचना सं. 33/94 कस (एन.टी.) दिनांक 1-07-1994 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैं, टी. प्रेमकुमार, मुख्य आयुक्त, सीमा शुल्क एवं केन्द्रीय उत्पाद शुल्क, कोयंबतूर एतद्वारा तमिलनाडु राज्य के विरुद्धुनगर ज़िला के विरुद्धुनगर नगर तालुक के 'विरुद्धुनगर' को सीमा-शुल्क अधिनियम, 1962 की धारा 9 के अन्तर्गत भंडागारण स्टेशन घोषित करता हूँ।

[फा. सी सं. VIII/40/1/2011-कस. (सी.सी.ओ.)]

टी. प्रेमकुमार, मुख्य आयुक्त

MINISTRY OF FINANCE

(Department of Revenue)

(Office of the Chief Commissioner of Customs & Central Excise)

[No. I/2011-CUSTOMS (NT)]

Coimbatore, the 25th February, 2011

S.O. 810.—In exercise of the powers conferred vide Notification No. 33/94-Customs (NT) dated 1st July, 1994 of the Government of India, Ministry of Finance, Department of Revenue, New Delhi issued under Clause (a) of Section 152 of the Customs Act, 1962, read with Notification No. 14/2002 Cus. (NT) dated 7-3-2002, as amended, I, T. Premkumar, Chief Commissioner of Customs and Central Excise, Coimbatore, hereby declare "VIRUDHUNAGAR TOWN" in Virudhunagar taluk of Virudhunagar District in the State of Tamilnadu, to be a Warehousing Station under Section 9 of the Customs Act, 1962

[F.C. No.VIII/40/1/2011-CUS(C.C.O.)]

T. PREMKUMAR, Chief Commissioner.

(सीमा एवं केन्द्रीय उत्पाद शुल्क के आयुक्त का कार्यालय
हैदराबाद-1, आयुक्तालय)

[सं. 01/2011-सीमा-शुल्क (एन.टी.)]

हैदराबाद, 14 मार्च, 2011

का.आ. 811.—वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली के दिनांक 01-07-1994 की अधिसूचना सं 33/94- सीमा शुल्क (एन.टी.) यथा संशोधित एवं दिनांक 30-06-2004 की अधिसूचना सं. 83/2004 सीमा शुल्क (एन.टी.) के अनुसार सीमा शुल्क अधिनियम, 1962 की धारा 9 के अंतर्गत प्रदत्त शक्तियों का प्रयोग करते हुए मैं, आंध्र प्रदेश राज्य के निजामाबाद ज़िले के मोरताड मंडल के मोरताड गांव को सीमा शुल्क अधिनियम, 1962 की धारा 9 के अधीन सीमित प्रयोजनार्थ हेतु, भारत सरकार द्वारा अनुमोदित 100% निर्यातोन्मुख उपक्रम स्थापित करने के लिए भंडागारण स्टेशन घोषित करता हूँ।

[फा. सी सं. VIII/20/15/2010-कस. टेक-I- हैद.1]

एस. एन. साहा, आयुक्त

(OFFICE OF THE COMMISSIONER OF CUSTOMS,
CENTRAL EXCISE AND SERVICE TAX
HYDERABAD-I, COMMISSIONERATE)

[No. 1/2011-CUS. (NT)]

Hyderabad, the 14th March, 2011

S.O. 811.—In exercise of the powers conferred under Section 9 of the Customs Act, 1962 delegated by Notification No. 33/94-Cus. (N.T.) dated 01-07-1994 as amended and No. 83/2004-Cus. (N.T.) dated 30-06-2004 issued by the Ministry of Finance, Department of Revenue, New Delhi, I hereby declare Morthad Village of Morthad Mandal, Nizamabad District, Andhra Pradesh as a Warehousing Station under Section 9 of the Customs Act, 1962 for the limited purpose of setting up of 100% Export Oriented Undertakings as approved by the Government of India.

[F.C.No.VIII/20/15/2010-Cus/Tech-I-Hyd. I]

S.N. SAHA, Commissioner

कार्यालय मुख्य आयकर आयुक्त

[सं. 27/2010-11]

जयपुर, 14 मार्च, 2011

का.आ. 812.—आयकर नियम, 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 (1961 का 43वां) की धारा 10 के खण्ड (23 सी) की उपधारा (vi) के द्वारा प्रदत्त

शक्तियों का प्रयोग करते हुए मुख्य आयकर आयुक्त, जयपुर एतद्वारा निर्धारण वर्ष 2010-11 एवं आगे के लिए कथित धारा के उद्देश्य से “अन्नपूर्ण मेडिकल ट्रेनिंग इन्स्टीट्यूट, सीकर” को स्वीकृति देते हैं बशर्ते कि समिति आयकर नियम 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 की धारा 10 के उपखण्ड (23सी) की उपधारा (vi) के प्रावधारों के अनुरूप कार्य करे।

[क्रमांक/मुआआ/अआआ/(मु)/जय/10(23सी)/(vi)/10-11/6905]

मुकेश भान्ती, मुख्य आयकर आयुक्त

OFFICE OF THE CHIEF COMMISSIONER OF INCOME-TAX

[No.27/2010-11]

Jaipur, the 14th March, 2011

S.O. 812.—In exercise of the powers conferred by sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961) read with rule 2CA of the Income-tax Rules, 1962 the Chief Commissioner of Income-tax, Jaipur hereby approves “Annapurna Medical Training Institute, Sikar” for the purpose of said section for the A. Y. 2010-11 & onwards.

Provided that the society conforms to and complies with the provisions of sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 read with rule 2CA of the Income-tax Rules, 1962.

[No.CCIT/JPR/Addl. CIT (Hqrs.)/10(23C)(vi)/2010-11 6905]

MUKESH BHANTI, Chief Commissioner of Income-tax

शुद्धि-पत्र

जयपुर, 14 मार्च, 2011

का.आ. 813.—आयकर अधिनियम 1961 की धारा 10 के खण्ड (23 सी) के उपखण्ड (via) के तहत अधिसूचना सं. 13/2010-11 दिनांक 22-09-2010 के द्वारा श्री अमर जैन मेडिकल रिलीफ सोसायटी, जयपुर को स्वीकृति दी गई थी। अधिसूचना के पैरा 1 की लाईन 3 में निर्धारण वर्ष 2006-07 से 2008-09 के लिए के स्थान पर निर्धारण वर्ष 2006-07 एवं आगे के लिए पढ़ा जाये।

[क्रमांक/मुआआ/अआआ/(मु)/जय/10(23सी)(via)/2010-11/6904]

मुकेश भान्ती, मुख्य आयकर आयुक्त

CORRIGENDUM

Jaipur, the 14th March, 2011

S.O. 813.—In Notification No. 13/2010-11 dated 22-09-2010 vide which “Shree Amar Jain Medical Relief Society, Jaipur” was approved for the purpose of sub-clause (via) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961) read with rule 2CA of the Income-tax Rules, 1962 in Para 1, line 4 may be read as ‘A. Y. 2006-07 & onwards’ instead of ‘A. Y. 2006-07 to 2008-09’.

[No.CCIT/JPR/Addl. CIT (Hqrs.)/10(23C)(via)/2010-11/6904]

MUKESH BHANTI, Chief Commissioner of Income-tax

कार्यालय मुख्य आयकर आयुक्त

[सं. 2010-11]

जोधपुर, 15 मार्च, 2011

का.आ. 814.—आयकर अधिनियम, 1961 (1961 का 43वां) की धारा 10 के खण्ड (23 ग) के खण्ड (vi) के साथ पठित आयकर नियमावली- 1962 के नियम 2ग ए द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मुख्य आयकर आयुक्त, जोधपुर एतदद्वारा “मरुधर एन्युकेशन सोसाइटी, एन. एच. -11, जयपुर रोड, बीकानेर” को उक्त धारा के प्रयोजनार्थ निर्धारण वर्ष 2010-11 से आगे तक निम्नलिखित शर्तों के अधीन अनुमोदित करते हैं :—

1. कर निर्धारिती उसकी आय का प्रयोग अथवा उसकी आय का प्रयोग करने के लिए उसका संचयन पूर्णतः तथा अन्यथा उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई।
2. कर निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक छंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जेवाहिरात, फर्नीचर आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा।
3. यह आदेश किसी ऐसी आय के संबंध में लागू नहीं होगा, जो कि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे, कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हो।

4. कर निर्धारिती आयकर अधिनियम 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा।

5. विघटन की स्थिति में इसकी अतिरिक्त राशियां और परिसंपत्तियां समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएगी और उसका कोई भी भाग संस्थान के किसी सदस्य को नहीं दिया जाएगा।

6. यह अधिसूचना तब तक जारी रहेगी जब तक इसे वापस न लिया जाय।

[संदर्भ सं.-मुआआ/आ.आ.(तक)/जोध/2010-11/5169]

दिलीप शिवपुरी, मुख्य आयकर आयुक्त

OFFICE OF THE CHIEF COMMISSIONER OF INCOME-TAX

[No. 2010-11]

Jodhpur, the 15th March, 2011

S.O. 814.—In exercise-of the powers conferred by clause (vi) of Section 10(23C) of the Income-tax Act, 1961 (43 of 1961) read with rule 2CA of the Income Tax Rules, 1962, I, the Chief Commissioner of Income Tax, Jodhpur hereby approve "MARUDHAR EDUCATION SOCIETY N.H. -11, JAIPUR ROAD, BIKANER" for the purpose of the said Section for the assessment year 2010-11 onwards, subject to the following conditions:-

1. the assessee will apply its income, or accumulate for application wholly and exclusively to the objects for which it is established;
2. the assessee will not invest or deposit its funds (other than voluntary contribution received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in anyone or more of the forms or modes specified in sub-section (5) of Section 11;
3. this order will not apply in relation to any income being profits and gain of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business;
4. the assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of Income-tax Act, 1961;

5. that in the event of dissolution, its surplus and the assets will be given to a charitable organization with similar objectives and no part of the same will go to any of the members of the Institution.

6. This notification will remain in force until it is withdrawn.

[Ref. No. CCIT/ITO/(Tech.)/Ju/2010-11/5169]

DILEEP SHIVPURI, Chief Commissioner of Income-tax

(वित्तीय सेवाएँ विभाग)

नई दिल्ली, 18 मार्च, 2011

का. आ. 815.—जीवन बीमा निगम अधिनियम, 1956 (1956 का 31) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री के. एस. सम्पत को अधिसूचना की तिथि से तीन वर्षों की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, भारतीय जीवन बीमा निगम के निदेशक मण्डल में गैर-सरकारी सदस्य के रूप में नियुक्त करती है।

[फा. सं. ए-15011/01/2007-बीमा-III]

एस. के. मोहन्ती, अवर सचिव

(Department of Financial Services)

New Delhi, the 18th March, 2011

S.O. 815.—In exercise of the powers conferred by section 4 of the Life Insurance Corporation Act, 1956 (31 of 1956), the Central Government hereby appoints Shri K.S. Sampath as Non-Official Member on the Board of the Life Insurance Corporation of India for a period of three years from the date of Notification or until further orders, whichever is earlier.

[F. No. A-15011/01/2007-Ins. III]

S. K. MOHANTY, Under Secy.

(आई एफ-1 अनुभाग)

नई दिल्ली, 23 मार्च, 2011

का. आ. 816.—भारतीय लघु उद्योग विकास बैंक अधिनियम, 1989 (1989 का 39) की धारा 6 की उपधारा (1) के खंड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, डॉ श्याम अग्रवाल अपर सचिव एवं विकास आयुक्त (एमएसएमई) को श्री माधव लाल के स्थान पर, अधिसूचना की तारीख से तीन वर्षों की अवधि के लिए अथवा अगले आदेश होने तक, जो भी पहले हो, भारतीय लघु उद्योग

विकास बैंक (सिडबी) के निदेशक मण्डल में निदेशक के रूप में नियुक्त करती है।

[फा. सं. 24/5/2002-आईएफ-1 (खंड-III)]

रमण कुमार गौड़, अवर सचिव

(IF-1 Section)

New Delhi, the 23rd March, 2011

S.O. 816.—In exercise of the powers conferred by clause (c) of sub-section (1) of Section 6 of the Small Industries Development Bank of India Act, 1989 (39 of 1989), the Central Government hereby appoints Dr. Shyam Agarwal, Additional Secretary & Development Commissioner (MSME) as a Director on the Board of Directors of Small Industries and Development Bank of India (SIDBI) in place of Shri Madhav Lal, for a period of three years or until further orders, whichever is earlier with effect from the date of notification.

[F. No. 24/5/2002-IF-I(Pt.-III)]

RAMAN KUMAR GAUR, Under Secy

विदेश मंत्रालय

(सीपीबी प्रभाग)

नई दिल्ली, 16 मार्च, 2011

का. आ. 817.—राजनयिक और कॉसलीय ऑफिसर (शप्प और फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) व अनुसरण में, केंद्र सरकार एतद्वारा श्री जयन्ता बक्शी, सहायक व 16-3-2011 से भारत के कॉसलावास, सेन फ्रांसिस्को में सहायत कॉसुलर अधिकारी के कर्तव्यों का पालन करने के लिए प्राधिकरण करती है।

[सं. टी. 4330/1/2006

आर. के. पेरिन्डिया, अवर सचिव (कॉसुलर

MINISTRY OF EXTERNAL AFFAIRS

(CPV Division)

New Delhi, the 16th March, 2011

S.O. 817.—In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oats and fees) Act, 1948 (41 of 1948), the Central Government hereby authorizes Shri Jayantha Bakshi, Assistant Consul General of India, San Francisco to perform the duties of Assistant Consular Officer with effect from 16 March, 2011.

[No. T. 4330/1/200

R. K. PERINDIA, Under Secy. (Consula

स्वास्थ्य एवं परिवार कल्याण मंत्रालय
(स्वास्थ्य एवं परिवार कल्याण विभाग)

नई दिल्ली, 22 फरवरी, 2011

का.आ. 818.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, भारतीय आयुर्विज्ञान परिषद् से परामर्श करके, संबद्ध विश्वविद्यालयों के नाम में परिवर्तन के कारण उक्त अधिनियम की प्रथम अनुसूची में निम्नलिखित और संशोधन करती है नामतः

उक्त प्रथम अनुसूची में मान्यताप्राप्त चिकित्सा अर्हता शीर्षक [इसके बाद कालम (2) के रूप में निर्दिष्ट] के अंतर्गत “डा. आरएमएल अवध विश्वविद्यालय, फैजाबाद, उत्तर प्रदेश” के प्रति पंजीकरण के लिए संक्षिप्त रूप [इसके बाद कालम (3) के रूप में निर्दिष्ट] शीर्षक के अंतर्गत अंतिम प्रविष्टि एवं उससे संबंधित प्रविष्टि के बाद निम्नलिखित को अंतर्विष्ट किया जाएगा, नामतः

(2)

“डिप्लोमा इन डर्माटोलॉजी, वेनरोलॉजी एवं लेप्रोजी”

(3)

डीडीबीएल

(एरा लखनऊ मेडिकल कालेज, लखनऊ, उत्तर प्रदेश में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में डा. आरएमएल अवध विश्वविद्यालय, फैजाबाद, उत्तर प्रदेश द्वारा दिसम्बर, 2009 में या इसके बाद प्रदान की गई चिकित्सा अर्हता मान्यताप्राप्त मानी जाएगी ।

डीए

(एरा लखनऊ मेडिकल कालेज, लखनऊ, उत्तर प्रदेश में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में डा.आरएमएल अवध विश्वविद्यालय, फैजाबाद, उत्तर प्रदेश द्वारा दिसम्बर, 2009 में या इसके बाद प्रदान की गई चिकित्सा अर्हता मान्यताप्राप्त मानी जाएगी ।

- नोट :**
1. किसी स्नातकोत्तर पाठ्यक्रम को प्रदान की गई मान्यता अधिकतम पांच वर्षों के लिए होगी, जिसके बाद इसे पुनः नवीकृत करवाना होगा ।
 2. उप-खण्ड -4 में अपेक्षित मान्यता को समय से पुनः नवीकृत न करवाने से संबंधित स्नातकोत्तर पाठ्यक्रम में दाखिलों को स्थिर रूप से रोक दिया जाएगा ।

[सं.यू. 12012/161/2010-एमई(पी.II)]

अनिता त्रिपाठी, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

New Delhi, the 22nd February, 2011

S.O. 818.—In exercise of the powers conferred by sub-section (2) of the Section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, due to change of nomenclature of the qualification namely :—

In the said Schedule -

(a) against “Dr. RML Avadh University, Faizabad, Uttar Pradesh” under the heading ‘Recognised Medical Qualification’ [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading ‘Abbreviation for Registration’ [hereinafter referred to as column (3)], the following shall be inserted, namely:—

(2)

“Diploma in Dermatology, Venerology & Leprosy”

(3)

DDVL

(This shall be a recognised medical qualification when granted by Dr. RML Avadh University, Faizabad, Uttar Pradesh in respect of students being trained at Era's Lucknow Medical College, Lucknow, Uttar Pradesh on or after December, 2009.

DA

(This shall be a recognised medical qualification when granted by Dr. RML Avadh University, Faizabad, Uttar Pradesh in respect of students being trained at Era's Lucknow Medical College, Lucknow, Uttar Pradesh on or after December, 2009.

- Note to all :**
1. The recognition so granted to a Postgraduate Course shall be for a maximum period of 5 years, upon which it shall have to be renewed.
 2. Failure to seek timely renewal of recognition as required in sub-clause-4 shall invariably result in stoppage of admissions to the concerned Postgraduate Course.

[No.U.12012/ 161/2010-ME(P.II)]
ANITA TRIPATHI, Under Secy.

उपभोक्ता मापले, खाद्य और सार्वजनिक वितरण मंत्रालय

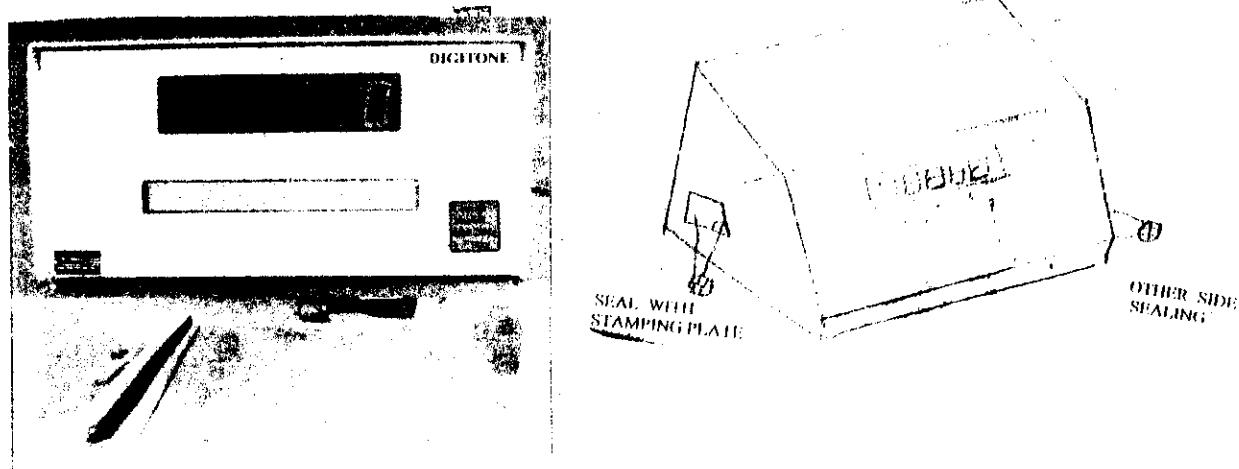
(उपभोक्ता मापले विभाग)

नई दिल्ली, 27 जनवरी, 2011

का.आ. 819.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स डिजिटा कंप्यूटर सर्विस, एससीओ 1008-09 (प्रथम तल), बस स्टेंड के सामने सेक्टर-22 बी, चंडीगढ़-160022 विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “डीआईडब्ल्यू” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (इलेक्ट्रॉनिक वेब्रिज) के मॉडल का, जिसके ब्रांड का नाम “डिजिटोन” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/10/83 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (इलेक्ट्रॉनिक वेब्रिज) है। इसकी अधिकतम क्षमता 30 टन और न्यूनतम क्षमता 100 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) 5 कि. ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यक्तनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपरोक्त करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



आकृति -2 माडल को सीलिंग करने का योजनाबद्ध डायग्राम

डिस्प्ले की बाड़ी पर दिए गए हैंड होल स्क्रू में से सीलिंग वायर निकाल कर डिस्प्ले के बैक साइड में सीलिंग की जाती है। डिस्प्ले की बैक प्लेट के होल से सील को जोड़ा गया है तब सील से जुड़े इन दोनों छेदों में से सील वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के “ई” मान के लिए $500 \text{ से } 10,000$ तक की रेंज में सत्यापन मापमान अन्तराल (एन) सहित 5 टन से 200 टन तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^4 , 2×10^4 और 5×10^4 , के हैं, जो धनात्मक या ऋणात्मक पूर्णक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(76)/2010]

बी.एन. दीक्षित, निदेशक, विधिक माप विज्ञान

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

New Delhi, the 27th January, 2011

S. O. 819.—Whereas the Central Government, after considering the report submitted to it by prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Electronic Weighbridge) with digital indication of medium Accuracy (Accuracy class -III) of Series "DIW" and with brand name "DIGITONE" (hereinafter referred to as the said Model), manufactured by M/s. Digital Computer Service, SCO 1008-09 (1st Floor), Opp. Bus Stand Sector 22-B, Chandigarh-160022 and which is assigned the approval mark IND/09/10/83;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Electronic Weighbridge) with a maximum capacity of 30 tonne and minimum capacity of 100 kg. The verification scale interval (e) is 5kg. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing results. The instrument operates on 230 Volts, 50Hertz alternative current power supply.

Figure-1 Model (Weighbridge)

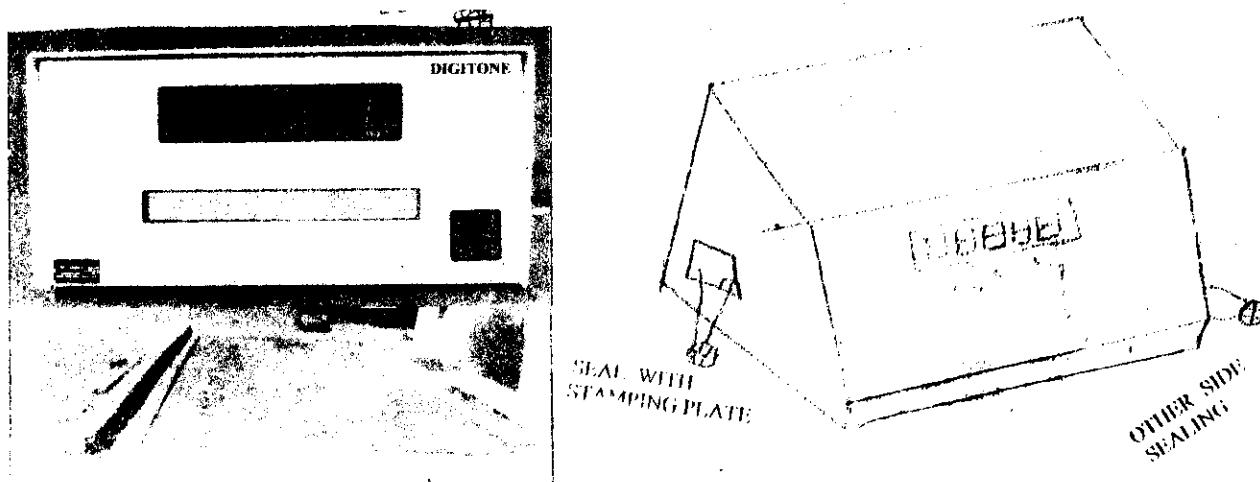


Figure-3 Sealing provision of the indicator of the model

Sealing is done on the back side of the display by passing sealing wire from the head whole screw on the body of the display. The seal is connected by whole in back plate of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said, Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 5 tonne and up to 200 tonne with verification scale interval (n) in the range of 500 to 10,000 'e' value of 5g or above and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

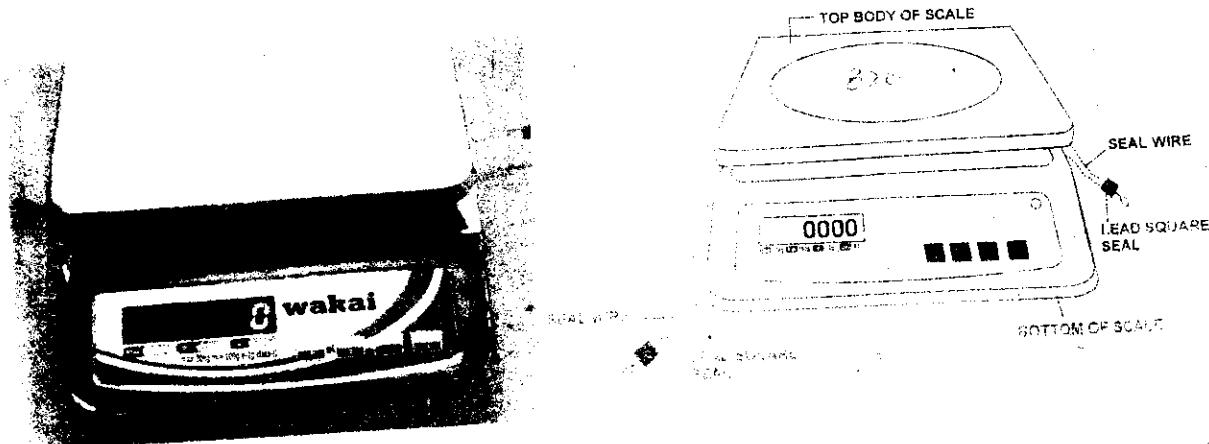
[F.No.WM-21(76)/2010]
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 27 जनवरी, 2011

का.आ. 820.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में चण्डित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और लिभिन परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा शक्तियों का प्रयोग करते हुए मैसर्स सत्यम वेइंग स्केल कं. साहबगंज, पी ओ-गीता प्रैस, गोरखपुर (उत्तर प्रदेश) द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले “डब्ल्यू के टी टी” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबलटाप टाईप) के मॉडल का, जिसके ब्रांड का नाम “डब्ल्यू ए के ए आई” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/10/198 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबलटाप प्रकार) है। इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यक्तिनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपर्युक्त करता है। उपकरण 230वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



आकृति - 2 उपकरण के माडल का सीलिंग प्रावधान

स्केल की बाढ़ी के होल्स में से सीलिंग वायर निकाल कर सीलिंग की जाती है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम ऊपर दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्लिच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. से 2 ग्रा. तक के “ई” मान के लिए 100 से 100,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के “ई” मान के लिए 5000 से 100,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^4 , 2×10^4 , 5×10^4 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(138)/2010]

बी.एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 27th January, 2011

S. O. 820.—Whereas the Central Government, after considering the report submitted to it by prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby approves and issues the certificate of approval of the model of non-automatic weighing instrument (Tabletop type) with digital indication belonging of High Accuracy (Accuracy class -II) of Series "WKTT" and with brand name "WAKAI" (hereinafter referred to as the said Model), manufactured by M/s. Satyam Weighing Scale, Co., Sahabganj, PO-Gita Press, Gorakhpur (UP) which is assigned the approval mark IND/09/10/198;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Tabletop type) with a maximum capacity of 30kg. and minimum capacity of 100 g. The verification scale interval (e) is 2g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing results. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

Figure-1 Model

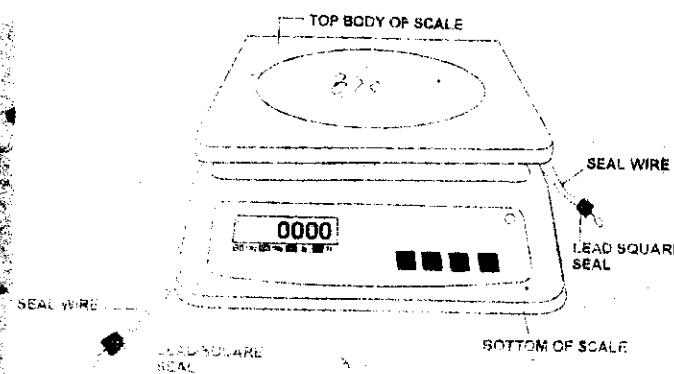
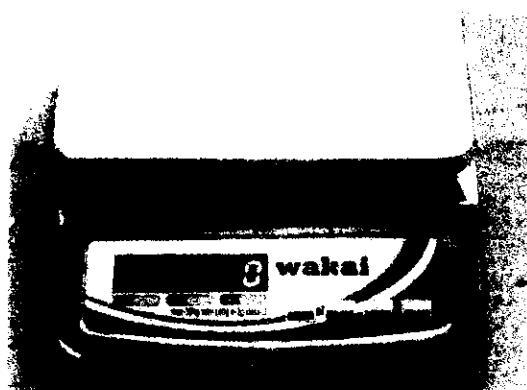


Figure-2 Schematic diagram of Sealing of the model

Passing the sealing wire from the body of the scale through holes. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has been provided in A/D card/mother board to enable access to external calibration.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said, Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy, performance and of the same series with maximum capacity up to 50kg. and with number of verification scale interval (n) in the range of 100 to 100,000 'e' value of 100mg to 2g and with number of verification scale interval (n) in the range of 5000 to 100,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , k being the a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and materials with which, the approved model has been manufactured.

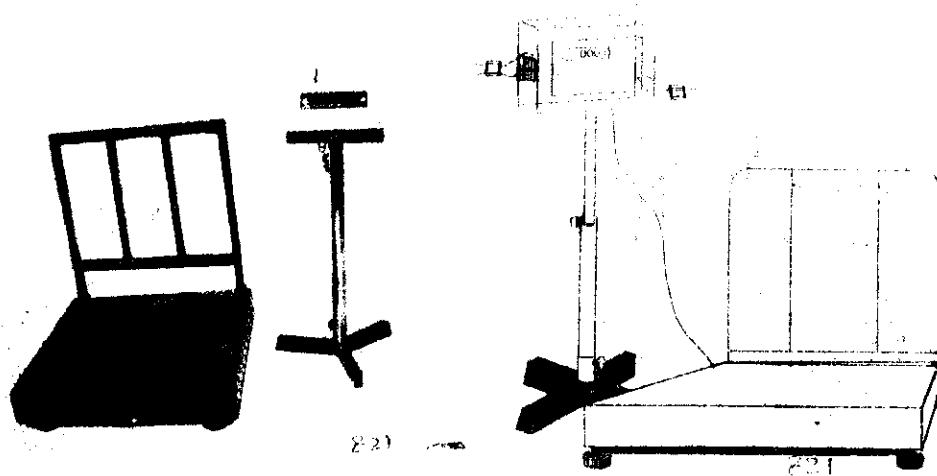
[F.No.WM-21(138)/2010]
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 27 अप्रैल, 2011

का.आ. 821.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) खाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बैट्ट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि समातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा शक्तियों का प्रयोग करते हुए मैसर्स सत्यम वेङ्ग स्केल क., साहबगंज, पी ओ-गीता प्रैस, गोरखपुर (उत्तर प्रदेश) द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले “डब्ल्यू के पी एफ” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) के मॉडल का, जिसके ब्रांड का नाम “डब्ल्यू ए फै ए आई” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/10/199 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) है। इसकी अधिकतम क्षमता 1000 कि.ग्रा. और न्यूनतम क्षमता 2 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) 100 ग्रा. है। इसमें एक आधेयतुलने युक्ति है जिसका शत प्रतिशत व्यक्तिनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



आकृति -2 उपकरण के मॉडल का सीलिंग प्रावधान

स्केल की बाढ़ी के होल्स में से सीलिंग बायर निकाल कर सीलिंग की जाती है। मॉडल को सीलबंद करने के उपबंध का एक प्रस्तुपी योजनाबद्ध डायग्राम ऊपर दिया गया है।

उपकरण में बाहरी कोलिडेशन तक पहुंच की सुविधा है। बाहरी कोलिडेशन तक पहुंच को सेकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का व्योग उसे हुए पर योग्य करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार जिस उसी रूपरी से नियमों उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के बैस ही मेक, यथार्थता और कार्यपालन के तौलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अन्तराल (एन) सहित 50 कि.ग्रा. से 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^4 , 2×10^4 , 5×10^4 , के हैं, जो धनात्मक या ऋणात्मक पूर्णक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(138)/2010]

बी.एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 27th January, 2011

S. C. 21.—Whereas the Central Government, after considering the report submitted to it by prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby approves issues and the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of Medium Accuracy (Accuracy class -III) of Series "WKPF" and with brand name "WAKAI" (hereinafter referred to as the said Model), manufactured by M/s Satyam Weighing Scale, Co., Sahabganj, PQ-Gita Press, Gorakhpur (UP) which is assigned the approval mark IND/09/10/199;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 1000kg. and minimum capacity of 2kg. The verification scale interval (e) is 100g. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing results. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

Figure-1 Model

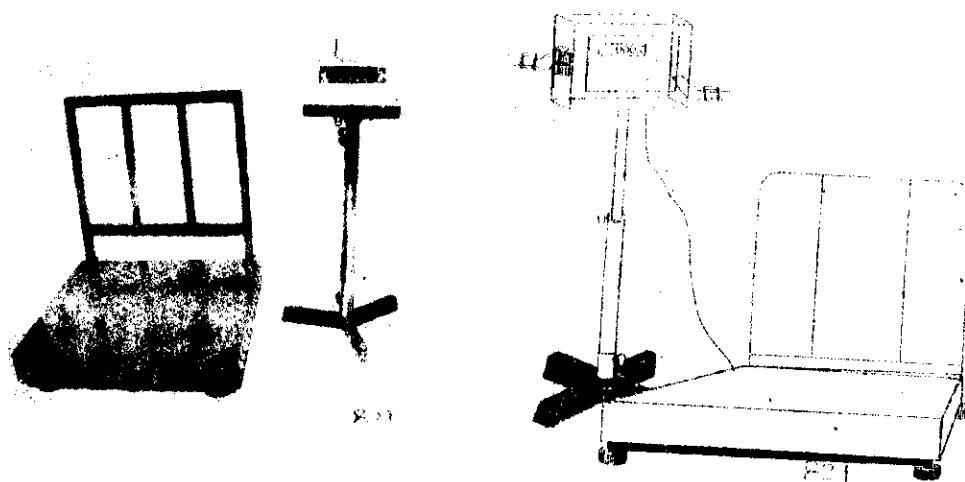


Figure-2 Schematic diagram of Sealing of the model

Sealing is done by passing the sealing wire from the body of the scale through holes. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50kg. up to 5000 kg. with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F.No.WM-21/(138)/2010]

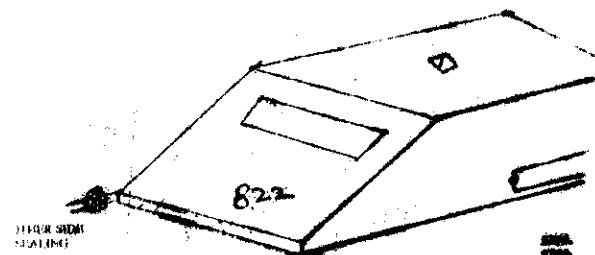
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 27 जनवरी, 2011

का.आ. 822.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाचार हो गया है कि उक्त रिपोर्ट में बर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976(1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा शक्तियों का प्रयोग करते हुए मैसर्स मार्केण्डा स्केल कंपनी, गोपी विहार, बेरीवाला पीर के सामने, शहाबाद, मार्केण्डा हरियाणा-136135, द्वारा विनिर्मित उच्च यथार्थता (यथार्थता कार्ड-II) वाले “एच एस टी” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबलटाप टाइप) के मॉडल का, जिसके ग्रांड का नाम “हरीसन टैक” है (जिसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन विह आई एन फी/09/10/67 समनुरेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार तोलन आधारित अस्वचालित तोलन उपकरण (टेबलटाप प्रकार) है। इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शात प्रतिशत व्यक्तिनाम्नक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



आकृति -2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

स्टाम्प और सीलिंग के सत्यापन के लिए वेइंग स्केल की बाट्म में दिए गए चार हैड होल स्क्रू में से लीड बायर निकाल कर करता गया है। उपकरण को सील से छेड़छाड़ किए बिना नहीं खोला जा सकता। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम ऊपर दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के दैसे ही भेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि. ग्रा. से 50 मि. ग्रा. तक के “ई” मान के लिए 100 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि. ग्रा. या उससे 1 मि. ग्रा. से 50 मि. ग्रा. तक के “ई” मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता अधिक के “ई” मान के लिए 1x10⁴, 2x10⁴ 5x10⁴, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(10)/2010]

बी.एन. दीक्षित, निदेशक, विधिक माप विभाग

New Delhi, the 27th January, 2011

S. O. 822.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model, of non-automatic weighing instrument (Table top type) with digital indication of High Accuracy (Accuracy class -II) of Series "HST" and with brand name "HARISON TECH" (hereinafter referred to as the said Model), manufactured by M/s Markanda Scale Company, Gopi Vihar, Opp. Beriwala Peer, Shahabad, Markanda Haryana-136135 which is assigned the approval mark IND/09/10/67;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30kg, and minimum capacity of 100 g. The verification scale interval (e) is 2kg. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

Figure-1 Model

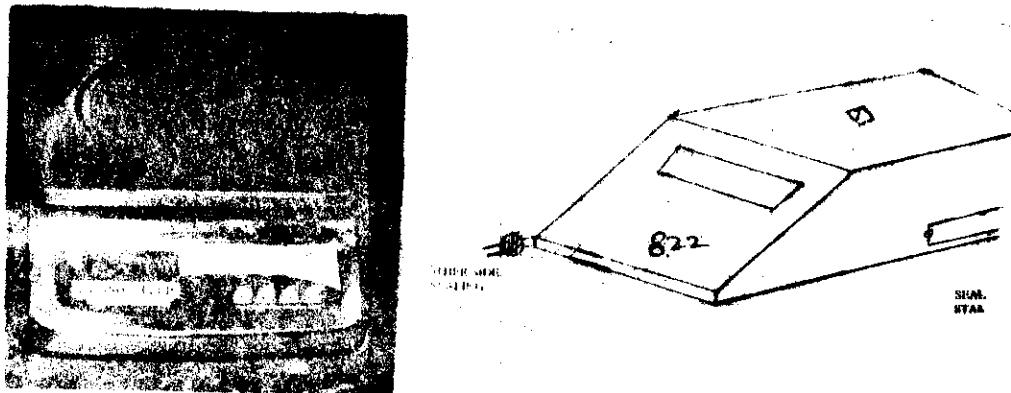


Figure-2 Schematic diagram of Sealing provision of the model

The weighing scale has four head hole screws in four corner in its bottom and fastened by a leaded wire through these four holes for receiving the verification stamp and seal. The instrument can not be opened without tampering the seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said, Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, and performance of same series with maximum capacity up to 50kg, and with number of verification scale interval (n) in the range of 100 to 50,000 for ' e ' value of 1mg. to 50 mg. and with number of verification scale interval (n) in the range of 5000 to 50,000 for ' e ' value of 100mg. or more and with ' e ' value 1×10^k , 2×10^k , or 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

[F.No. WM-21/(10)/2010]

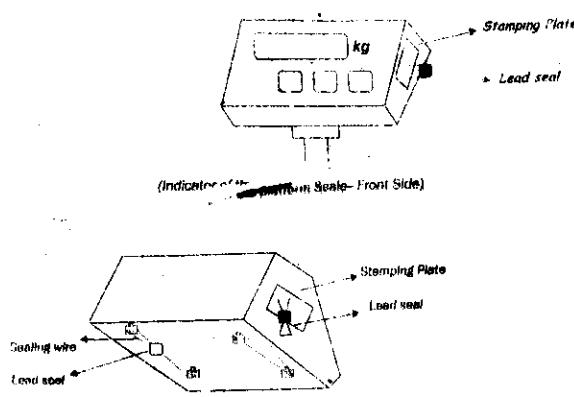
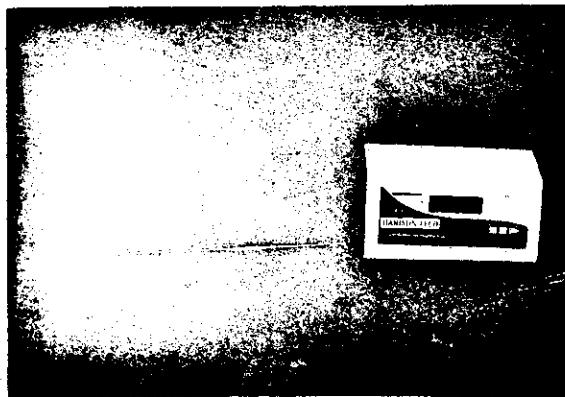
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 27 जनवरी, 2011

का.आ. 823.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा शक्तियों का प्रयोग करते हुए मैसर्स मार्कण्डा स्केल कंपनी, गोपी विहार, बेरीबाला पीर के सामने, शाहबाद, मार्कण्डा हरियाणा-136135, द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) बाले “एच एस पी” शृंखला के अंक के सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) के मॉडल का, जिसके ब्रांड का नाम “हरीसन टैक” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न अर्ड एन डी/09/10/68 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) है। इसकी अधिकतम क्षमता 200 कि.ग्रा. और न्यूनतम क्षमता 1 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) 50 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यक्तिनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



आकृति -2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

स्टाम्प और सीलिंग के सत्यापन के लिए वेइंग स्केल की बाटम में दिए गए चार हैड होल स्क्रू में से लीड वायर निकाल कर कसा गया है। उपकरण को सील से छेड़छाड़ किए बिना नहीं खोला जा सकता। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिसके उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500×10^{-6} से $10,000$ सक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^{-6} , 2×10^{-6} और 5×10^{-6} , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(10)/2010]

बी.एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 27th January, 2011

S. O. 823.—Whereas the Central Government, after considering the report submitted to it by prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of Medium Accuracy (Accuracy class -III) of Series "HSP" and with brand name "HARISON TECH" (hereinafter referred to as the said Model), manufactured by M/s Markanda Scale Company, Gopi Vihar, Opp Beriwala Peer, Shahabad, Markanda Haryana- 136135 which is assigned the approval mark IND/09/10/68;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 200kg. and minimum capacity of 1kg. The verification scale interval (e) is 50g. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

Figure-1 Model

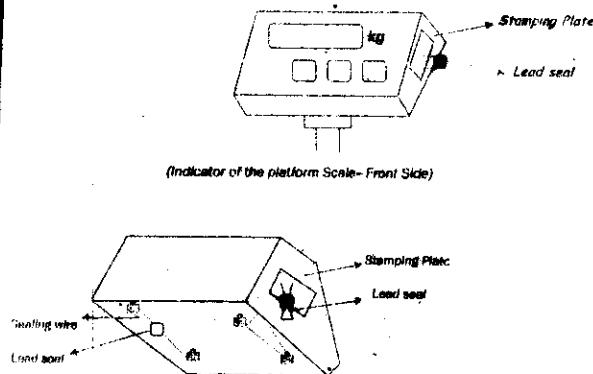
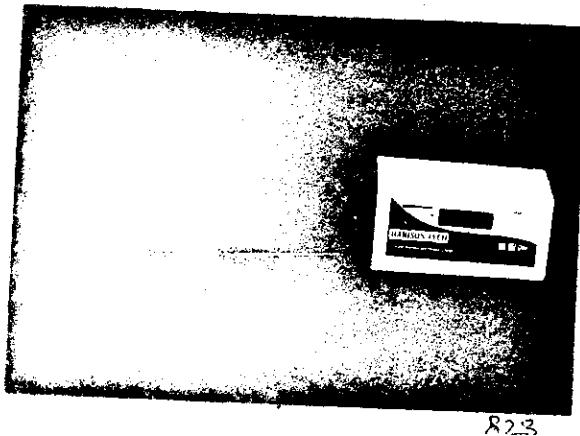


Figure-2 Schematic diagram of Sealing provision of the Model

The weighing scale has four head hole screws in four corner in its bottom and fastened by a leaded wire through four holes for receiving the verification stamp and seal. The instrument can not be opened without tampering the seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board for access to external calibration.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said, Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50kg. up to 5000 kg. with verification scale interval (n) in the range of 500 to 10,000 for ' e ' value of 5g. or more and with ' e ' value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F.No.WM-21/(10)/2010]

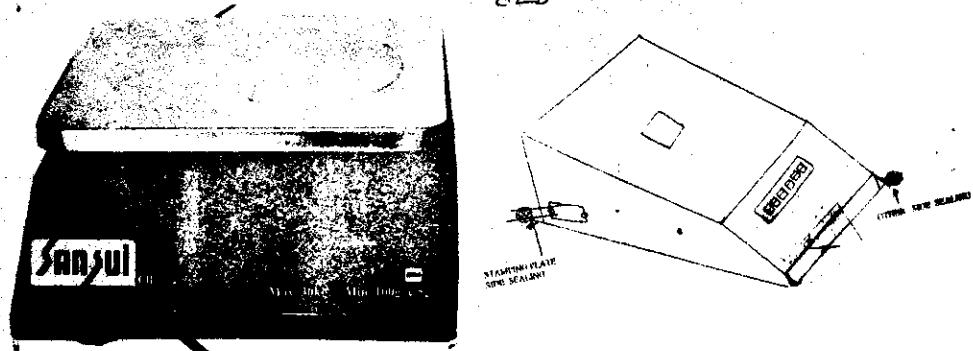
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 28 जनवरी, 2011

का.आ. 824.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रसंतुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बाट की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स छगनभाई काटावाला, 107, वैभवानन्द हाउसिंग सोसायटी, हनुमान मंदिर के पास, पुण्यधाम मंदिर, हुकेश्वर रोड, नागपुर-34 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “एसएसपी” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबलटाप टाइप) के मॉडल का, जिसके ब्रांड का नाम “सनसुइको” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/10/88 सम्मुद्रेश्वत किया गया है, अनुमोदन प्रमाण पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबलटाप प्रकार) है। इसकी अधिकतम क्षमता 30 कि.ग्रा और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यक्तिनामक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपर्युक्त करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



आकृति - 2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

डिम्पल की बाड़ी में छेदों से सीलिंग बायर निकाल कर सीलिंग की जाती है। मॉडल को सीलबंद करने के उपबंध का एक प्रूफी योजनाबद्ध डायग्राम ऊपर दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. से 2 ग्रा. तक के “ई” मान के लिए 100 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि. ग्रा तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^4 , 2×10^4 और 5×10^4 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(81)/2010]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 28th January, 2011

S.O. 824.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of Approval of the model of non-automatic weighing instrument (Table top type) with digital indication of Medium Accuracy (Accuracy class -III) of Series "SSP" and with brand name "SANSUICO" (hereinafter referred to as the said Model), manufactured by M/s Chaganbhai Katawala, 107, Vaibhavanand Housing Society, Nr. Hanuman Mandir, Punyadham Mandir, Hukeshwar Road, Nagpur-34 which is assigned the approval mark IND/09/10/88;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30 kg and minimum capacity of 100 g. The verification scale interval (e) is 5g. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz alternative current power supply.

Figure-1 Model

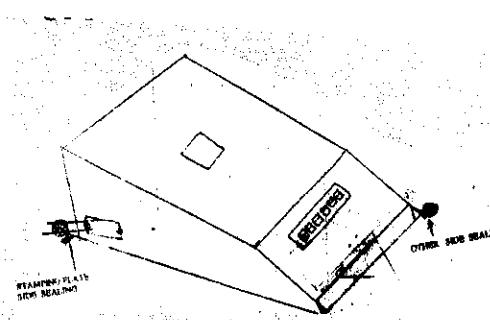
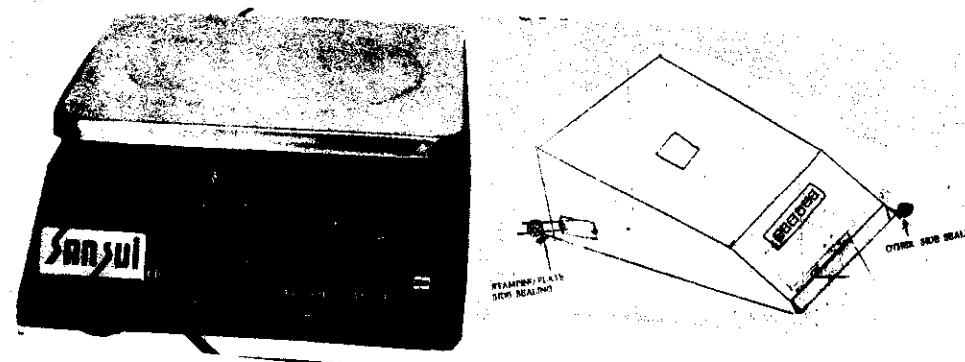


Figure-2 Schematic Diagram of sealing provision of the Model

Sealing is done by passing the sealing wire from the body of the display through holes. A typical schematic diagram of sealing provision of the model is given above. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of same make, and performance of same series with maximum capacity up to 50 kg and with number of verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg. to 2g. and with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value 1×10^k , 2×10^k or 5×10^k , K being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

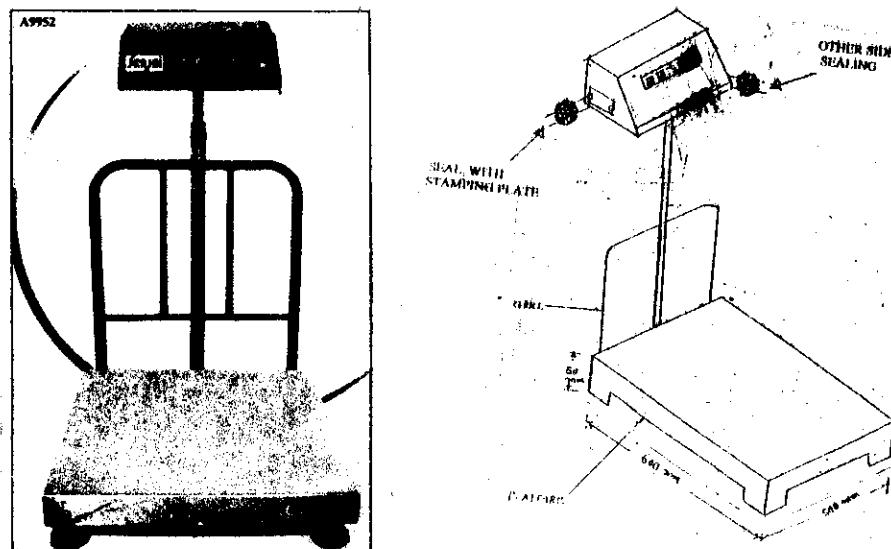
[F. No. WM-21/(81)/2010]
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 28 जनवरी, 2011

का.आ. 825.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976(1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स छगनभाई काटावाला, 107, वैभवानन्द हाउसिंग सोसायटी, हनुमान मंदिर के पास, पुण्यधाम मंदिर, हुकेश्वर रोड, नागपुर-34 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “एस-एस-पी” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) के मॉडल का, जिसके ब्रांड का नाम “सनसुइको” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एम डी/09/10/89 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) है। इसकी अधिकतम क्षमता 500 कि.ग्रा और न्यूनतम क्षमता 1 कि. ग्रा. है। सत्यापन मापमान अन्तराल (ई) 50 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यक्तिनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपर्युक्त करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



आकृति -2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

डिस्प्ले की बॉडी में छेदों से सीलिंग आयर निकाल कर सीलिंग की जाती है; मॉडल को सीलिंग करने के उपर्युक्त का एक प्रस्तुति योजनाबद्ध डायग्राम ऊपर दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्लिच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसर और उसी साप्रगी से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अन्तराल (एन) सहित 50 कि. ग्रा. से 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^4 , 2×10^4 या 5×10^4 , के हैं, जो धनात्मक या ऋणात्मक पूर्णक शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(81)/2010]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 28th January, 2011

S.O. 825.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of Medium Accuracy (Accuracy class-III) of Series "SSP" and with brand name "SANSUICO" (hereinafter referred to as the said Model), manufactured by M/s. Chaganbhai Katawala, 107, Vaibhavanand Housing Society, Nr. Hanuman Mandir, Punyadham Mandir, Hukeshwar Road, Nagpur-34 which is assigned the approval mark IND/09/10/89;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 500 kg and minimum capacity of 1 kg. The verification scale interval (*e*) is 50 g. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz alternative current power supply.

Figure-1 Model

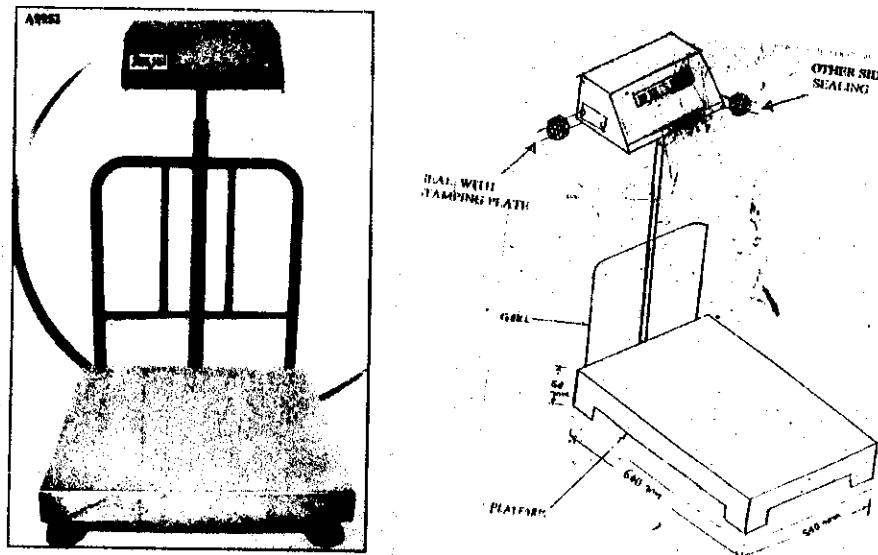


Figure-2 Schematic Diagram of sealing provision of the model

Sealing is done by passing the sealing wire from the body of the display through holes. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said, Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg up to 5000 kg with verification scale interval (*n*) in the range of 500 to 10,000 for '*e*' value of 5g or more and with '*e*' value 1×10^k , 2×10^k or 5×10^k , where *k* is positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

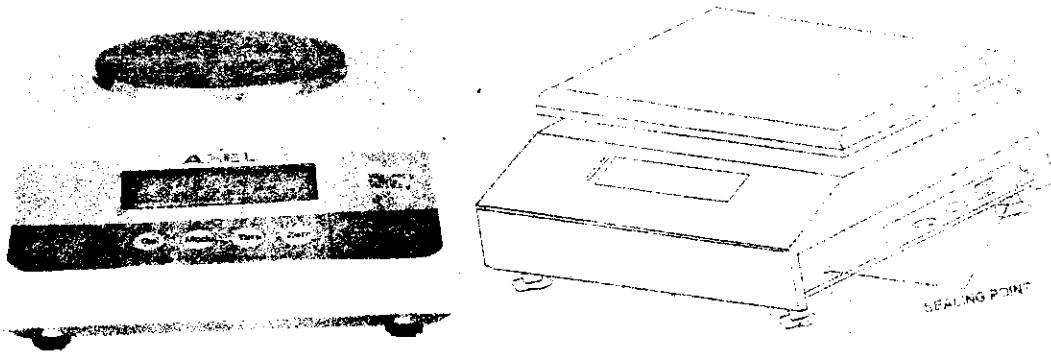
[F. No. WM-21/(81)/2010]
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 28 जनवरी, 2011

का.आ. 826.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बाट की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स एक्सल स्केल्ज, #5, हनुमानथरायान कॉलेज स्ट्रीट, पार्क टाउन, चेन्नै -600003 द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले “एजेंट्स” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबलटाप टाइप) के मॉडल का, जिसके ड्रांड का नाम “एक्सल” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/10/478 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबलटाप टाइप) है। इसकी अधिकतम क्षमता 600 ग्रा. और न्यूनतम क्षमता 200 मि. ग्रा. है। सत्यापन मापमान अंतराल (ई) 10 मि. ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श तोलन परिणाम उपर्युक्त करता है। उपकरण 230 वोल्ट और 50 हर्ड्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



आकृति -2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

डिस्प्ले की बॉडी में से सीलिंग वायर निकाल कर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्प्ले के बेस प्लेट और टॉप के बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपीं योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए.डी कार्ड/मदर बोर्ड में फ्लिपच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा क है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी सिद्धांत, डिजाइन के अनुसार और उसी साम्राजी से जि उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थतां और कार्यपालन के तोलन उपकरण भी जो 1 मि. ग्रा. से 50 मि. ग्रा. तक के “ई” मान के लिए 100 से 100,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि. या उससे अधिक के “ई” मान के लिए 5000 से 100,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि. ग्रा तक की अधिक क्षमता वाले हैं और “ई” मान 1×10^8 , 2×10^8 या 5×10^8 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(288)/20

बी. एन. दीक्षित, निदेशक, विधिक माप वि

New Delhi, the 28th January, 2011

S.O. 826.—Whereas the Central Government, after considering the report submitted to it by prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of High Accuracy (Accuracy class -II) of Series. "AJS" and with brand name "AXEL" (hereinafter referred to as the said model), manufactured by M/s. Axel Scales, #5, Hanumantharayan Koil Street, Park Town, Chennai-600003 and which is assigned the approval mark IND/09/10/478;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 600 g and minimum capacity of 200 mg. The verification scale interval (e) is 10mg. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz alternative current power supply.

Figure-1

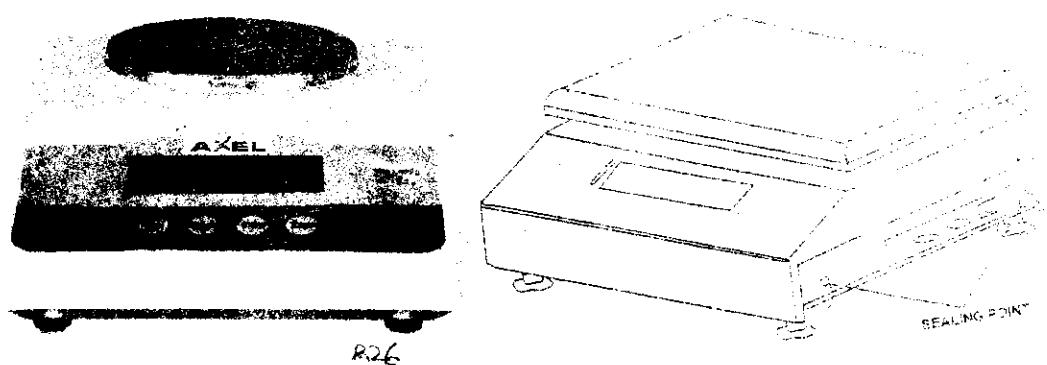


Figure-2 Schematic Diagram of sealing provision of the model

Sealing is done on the display by passing the sealing wire from the body of the display. The seal is connected by whole in base plate & top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

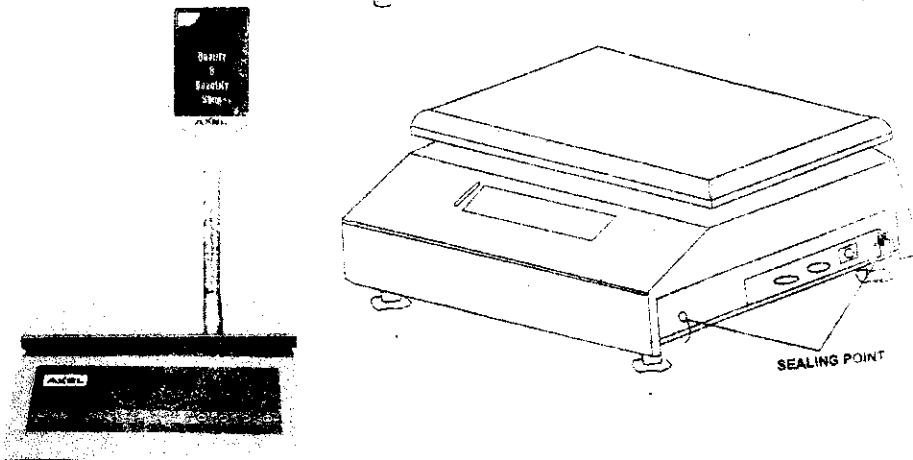
Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said, Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, and performance of same series with maximum capacity up to 50 kg with verification scale interval (n) in the range of 100 to 100,000 for 'e' value of 1mg to 50mg and with verification scale interval (n) in the range of 5000 to 100,000 for 'e' value of 100mg or more and with 'e' value 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

नई दिल्ली, 28 जनवरी, 2011

का.आ. 827.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बाट की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स एक्सल स्केलज, #5, हनुमानधरायान कोअल स्ट्रीट, पार्क टाउन, चैनै -600003 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता-III) वाले “एटीटी” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबलटाप टाइप) के मॉडल का, जिसके ब्रांड का नाम “एक्सल” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/10/479 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबलटाप टाइप) है। इसकी अधिकतम क्षमता 30 कि. ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ड्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



आकृति -2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

डिस्प्ले की बाढ़ी में से सीलिंग वायर निकाल कर डिस्प्ले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्प्ले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि. ग्रा. से 2 ग्रा. तक के “ई” मान के लिए 100 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि. ग्रा तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^4 , 2×10^4 या 5×10^4 के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(288)/2010]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 28th January, 2011

S.O. 827.—Whereas the Central Government, after considering the report submitted to it by prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of Medium Accuracy (Accuracy class -III) of Series "ATT" and with brand name "AXEL" (hereinafter referred to as the said model), manufactured by M/s Axel Scales, #5, Hanumantharayan Koil Street, Park Town, Chennai-600003 and which is assigned the approval mark IND/09/10/479 ;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30 kg. and minimum capacity of 100 g. The verification scale interval (e) is 5g. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz alternative current power supply.

Figure-I

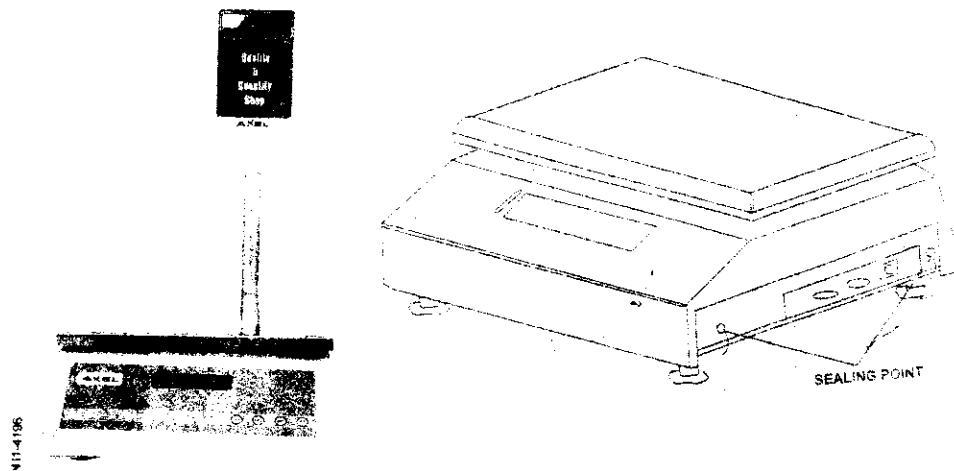


Figure-2 Schematic Diagram of sealing provision of the model

Sealing is done on the display by passing the sealing wire from the body of the display. The seal is connected by hole in base plate & top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother card to disable access to external calibration.

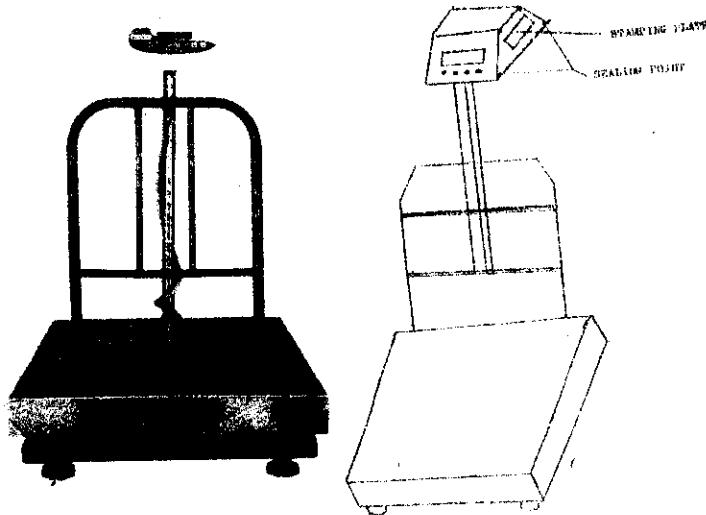
Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg. with verification scale interval (n) in the range of 100 to 10,000 for ' e ' value of 1mg to 2g and with verification scale interval (n) in the range of 500 to 10,000 for ' e ' value of 5g. or more and with ' e ' value 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

नई दिल्ली, 28 जनवरी, 2011

का.आ. 828.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स एक्सल स्केलज, #5, हनुमानथरायान कॉल स्ट्रीट, पार्क टाउन, चैने -600003 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता-III) वाले "एपीएस" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) के मॉडल का, जिसके ब्रांड का नाम "एक्सल" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/10/480 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) है। इसकी अधिकतम क्षमता 1000 कि. ग्रा. और न्यूनतम क्षमता 4 कि. ग्रा. है। सत्यापन मापमान अंतराल (ई) 200 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श तोलन परिणाम उपर्युक्त करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



आकृति -2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

डिस्प्ले की बाढ़ी में से सीलिंग वायर निकाल कर डिस्प्ले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्प्ले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिसुसे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) 5×10^{-4} का है, जो धनात्मक या सहित 50 कि. ग्रा से 5000 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{-4} , 2×10^{-4} या 5×10^{-4} , के हैं, जो धनात्मक या प्रहणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(288)/2010]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 28th January, 2011

S.O. 828.—Whereas the Central Government, after considering the report submitted to it by prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of Medium Accuracy (Accuracy class -III) of Series "APS" and with brand name "AXEL" (hereinafter referred to as the said model), manufactured by M/s Axel Scales, #5, Hanumantharayan Koil Street, Park Town, Chennai-600003 and which is assigned the approval mark IND/09/10/480;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 1000 kg and minimum capacity of 4 kg. The verification scale interval (e) is 200g. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz alternative current power supply.

Figure-1

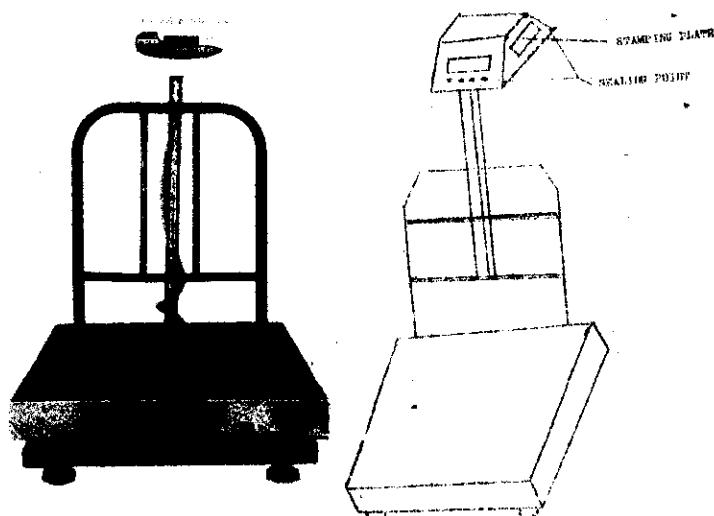


Figure-2 Schematic Diagram of sealing provision of the model

Sealing is done on the display by passing the sealing wire from the body of the display. The seal is connected by whole in base plate & top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity above 50 kg. and up to 5000kg. with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21/(288)/2010]
B. N. DIXIT, Director of Legal Metrology

भारतीय मानक व्यूरो

नई दिल्ली, 25 फरवरी, 2011

का.आ. 829.—भारतीय मानक व्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (कों) में संशोधन किया गया/किये गये हैं :-

अनुसूची

| क्रम सं. | संशोधित भारतीय मानक की संख्या और वर्ष | संशोधन की संख्या और तिथि | संशोधन लागू होने की तिथि |
|----------|--|--------------------------------|-----------------------------|
| (1) | (2) | (3) | (4) |
| 1. | आई एस 10096 (भाग 2): 1983 रेडियल गेट एवं रोप इम हाइट्स के निरीक्षण परीक्षण एवं अनुरक्षण संबंधी सिफारिशें भाग 2 स्थापन के समय निरीक्षण परीक्षण एवं एसेम्बली | संशोधन संख्या 2 जनवरी, 2011 | 31 जनवरी, 2011 |

इन संशोधनों की प्रतियाँ भारतीय मानक व्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चंडीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनंतपुरम में बिक्री हेतु उपलब्ध हैं।

तिथि 25-02-2011

[संदर्भ : डब्ल्यू आर डी-22/टी-16]

जे. सी. अरोड़ा, वैज्ञा. एफ एवं प्रमुख जल संसाधन वि.

BUREAU OF INDIAN STANDARDS

New Delhi, the 25th February, 2011

S.O. 829.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :—

SCHEDULE

| Sl.No. | No. Title and Year of the Indian Standards | No. and Year of the amendment | Date from which the amendment shall have effect |
|--------|---|-----------------------------------|---|
| (1) | (2) | (3) | (4) |
| 1. | IS 10096 (Part 2): 1983 Recommendations for inspection, testing and maintenance of radial gates and rope drum hoists Part 2 Inspection, testing and assembly at the time of erection | Amendment No. 2, January, 2011 | 31 January, 2011 |

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi- 110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

Date : 25-02-2011

[Ref: WRD-22/T-16]

J. C. ARORA, Sc.F & Lead (Water Resources Deptt.)

खाद्य और सार्वजनिक वितरण विभाग

नई दिल्ली, 17 मार्च, 2011

का.आ. 830.—केन्द्रीय सरकार, साजधारा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में उपभोक्ता ममले, खाद्य और सार्वजनिक वितरण मंत्रालय (खाद्य और सार्वजनिक वितरण विभाग) के प्रशासनिक नियंत्रणाधीन केन्द्रीय भंडारण निगम के निम्नलिखित कार्यालय जिसके 80 प्रतिशत से अधिक कर्मचारीवृन्द ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती हैः—

1. सेंट्रल बेयरहाउस,
नन्दनपुरा,
शिवपुरी रोड,
झांसी-284 003

[सं. ई-11011/1/2008-हिंदी]

नवीन प्रकाश, संयुक्त सचिव

(Department of Food and Public Distribution)

New Delhi, the 17th March, 2011

S.O. 830.—In pursuance of Sub-rule (4) of Rule 10 of the Official Language (Use for official purpose of the Union) Rules, 1976, the Central Government hereby notifies the following office of Central Warehousing Corporation under the administrative control of the Ministry of Consumer Affairs, Food & Public Distribution (Dept. of Food & Public Distribution), whereof more than 80% of staff have acquired the working knowledge of Hindi:—

1. Central Warehouse,
Nandanpura,
Shivpuri Road,
Jhansi-284 003

[No. E-11011/1/2008-Hindi]

NAVEEN PRAKASH, Joint Secy.

कोयला मंत्रालय

नई दिल्ली, 18 मार्च, 2011

का.आ. 831.—केन्द्रीय सरकार को यह प्रतीत होता है, कि इससे उपाबद्ध अनुसूची में उल्लिखित परिक्षेत्र की भूमि से कोयला अभिप्राप्त किए जाने की संभावना है ;

और उक्त अनुसूची में उल्लिखित भूमि के क्षेत्र के अंतर्गत आने वाले रेखांक संख्या जीएम/एमजे-एसजे/जीओसीपी (जीडब्ल्यूडब्ल्यूयू.ए) 2008/01, तारीख 3 जून, 2008 का निरीक्षण मुख्य महाप्रबंधक सी.ई.ओ., गोपाल प्रसाद ओसीपी/गोपाल प्रसाद क्षेत्र, आनंदनगर, डाकघर हाकीमपाड़ा, जिला अंगुल, पिनकोड-759143, ओडिशा के कार्यालय में या कलेक्टर और जिला मजिस्ट्रेट, अंगुल ओडिशा के कार्यालय में या कोयला नियंत्रक, 1, कांउसिल हाउस स्ट्रीट, कोलकाता के कार्यालय में किया जा सकता है ;

अतः अब, केन्द्रीय सरकार कोयला भारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 4 की उपधारा (1) द्वारा प्रदत्त सुवित्तमें का प्रबोध करते हुए, उक्त अनुसूची में वर्णित भूमि से कोयले का पूर्वेक्षण करने के अपने आशय की सूचना देती है ;

उक्त अनुसूची में उल्लिखित भूमि में हितबद्ध कोई क्षमित-

- (i) संपूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उसके ऊपर किसी अधिकार के अर्जन पर आक्षेप, या
- (ii) भूमि में या ऐसी भूमि पर कोई अधिकार या भूमि के प्रतिकर के हित के यदि कोई दावा, या
- (iii) खनन पद्धति अर्जन करने के अधीन अधिकारों की पूर्वेक्षण अनुशासि प्रभावहीन हो जाने और भूमि संबंधी सभी नक्शे, चार्टों तथा अन्य दस्तावेजों का घरिदार, अवस्कों या अन्य खनिजों के नमूनों का भूमि से संग्रहण और उनका सम्यक् विश्लेषण करने के लिए तथा उक्त अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट कोई अन्य सुसंगत अभिलेखों या सामग्रियों की तैयारी कि लिए प्रतिकर ।

इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर, मुख्य महाप्रबंधक सी.ई.ओ., गोपाल प्रसाद ओसीपी/गोपाल प्रसाद क्षेत्र, आनंदनगर, डाकघर हाकीमपाड़ा, जिला अंगुल, पिनकोड-759143, ओडिशा को भेजेगी ।

अनुसूची

उत्कल - ए ब्लॉक

गोपालप्रसाद ओपनकास्ट परियोजना

तलचर, जिला - अंगुल, ओडिशा

[रेखांक संख्या जीएम/एमजे-एसजे/जीओसीपी (जीडब्ल्यूडब्ल्यू-ए) 2008/01, तारीख 3 जून, 2008]

| क्रम सं. | मौजा/गांव का नाम | थाना | गांव संख्या | जिला | हेक्टेयर में क्षेत्र (लगभग) | एकड़ में क्षेत्र (लगभग) | टिप्पणियां |
|---------------|---------------------|--------|----------------|-------|--------------------------------|----------------------------|------------|
| 1. | कौसीढीपा | जरपोडा | 173 | अंगुल | 137.76 | 340.40 | भाग |
| 2. | छोटा बेरेनी | जरपोडा | 172 | अंगुल | 108.31 | 267.64 | भाग |
| 3. | कांकरई | जरपोडा | 174 | अंगुल | 99.49 | 245.84 | भाग |
| 4. | राईझरन | जरपोडा | 170 | अंगुल | 57.85 | 142.95 | भाग |
| 5. | गोलागडिया | जरपोडा | 171 | अंगुल | 6.46 | 15.97 | भाग |
| कुल क्षेत्र : | | | | | 409.87 | 1012.80 | |

सीमा वर्णन :-

- क-ख रेखा बिन्दु "क" से आरंभ होती है और दक्षिण दिशा की ओर आगे बढ़ते हुए गोलागडिया और छोटा बेरेनी की ग्राम सीमा बिन्दु "ख" की ओर बढ़ती है।
- ख-ग रेखा बिन्दु "ख" से आरंभ होती है और ग्राम गोलागडिया और छोटा बेरेनी की सम्मिलित ग्राम सीमा के पास बिन्दु "ग" तक दक्षिण की ओर बढ़ती है।
- ग-घ रेखा ग्राम कौसीढीपा में से दक्षिण दिशा की ओर से बढ़ती हुई बिन्दु "ग" से "घ" तक कौसीढीपा और राईझरन की ग्राम सीमा पर मिलती है।
- घ-ड रेखा ग्राम राईझरन में से होते हुए ग्राम राईझरन के प्लाट संख्या 1928 पर बिन्दु "ड." की ओर बढ़ती है।
- ड-च रेखा दक्षिण दिशा की ओर आगे बढ़ती है और ग्राम राईझरन के इसी प्लाट संख्या 1928 पर बिन्दु "च" पर मिलती है।
- च-छ रेखा बिन्दु "च" से आरंभ होती है और दक्षिण-पूर्व दिशा की ओर आगे बढ़ती है और बिन्दु "छ" पर मिलती है जो ग्राम कांकरई में है।
- छ-ज रेखा उत्तर दिशा की ओर आगे बढ़ती है और ग्राम कांकरई और कौसीढीपा की सम्मिलित सीमा बिन्दु "ज" पर मिलती है।
- ज-झ रेखा उत्तर दिशा की ओर आगे बढ़ती है और बिन्दु "झ" पर मिलती है जो ग्राम कौसीढीपा और छोटा बेरेनी की सम्मिलित सीमा पर है।
- झ-ज रेखा बिन्दु "झ" से आरंभ होती है और उत्तर दिशा की ओर आगे बढ़ती है और बिन्दु "ज" पर मिलती है जो छोटा बेरेनी की ग्राम सीमा पर है।
- ज-क रेखा ग्राम छोटा बेरेनी की उत्तर दिशा से होते हुए गोलागडिया गांव के बिन्दु "क" पर मिलती है।

[फा. सं. 43015/26/2008-पीआरआईडब्ल्यू-1(खंड-II)]

एस. सी. भाटिया, निदेशक

MINISTRY OF COAL

New Delhi, the 18th March, 2011

S.O. 831.— Whereas , it appears to the Central Government that coal is likely to be obtained from the lands in the locality described in the Schedule annexed hereto ;

And whereas, the Plan bearing number GM/MJSJ/GOCP (GWWU-A) 2008/01, dated the 3rd June, 2008 of the area of land described in the said Schedule may be inspected at the office of the Chief General Manager CEO, Gopal Prasad OCP/Gopal Prasad Area, at Anandnagar, Post Office Hakimpara, District Angul, Pincode-759143, Odisha or at office of the Collector and the District Magistrate, Angul, Odisha or at office of the Coal Controller, I, Council House Street, Kolkata ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby gives notice of its intention to prospect for coal from land described in the said Schedule ;

Any persons interested in the land described in the said Schedules may—

- (i) object to the acquisition of the whole or any part of the land, or of any rights in or over such land, or
- (ii) claim an interest in compensation if the land or any rights in or over such land, or
- (iii) seek compensation for prospecting licences ceasing to have effect, rights under mining leases being acquired and deliver all maps, charts and other documents relating to the land, collection from the land of cores or other mineral samples and due analysis thereof and the preparation of any other relevant record or materials referred to in sub-section (7) of Section 13 of the said Act,

to the Chief General Manager CEO, Gopal Prasad OCP/Gopal Prasad Area, at Anandnagar, Post Office Hakimpara, District Angul, Pincode-759143, Odisha within ninety days from the date of publication of this notification in the Official Gazette.

SCHEDULE**Utkal - A Block**

**Gopalprasad Open Cast Project,
Talcher, District - Angul, Odisha**

[Plan bearing number GM/MJSJ/GOCP (GWWU-A) 2008/01, dated the 3rd June, 2008]

| Sl. No. | Name of Mauja/Village | Thana | Village Number | District | Area in Hectares (approxi- mately) | Area in acres (approxi- mately) | Remarks |
|---------------------|--------------------------|----------|-------------------|----------|---|--|---------|
| 1. | Kaunsidhipa | Jarapada | 173 | Angul | 137.76 | 340.40 | Part |
| 2. | Chhota Bereni | Jarapada | 172 | Angul | 108.31 | 267.64 | Part |
| 3. | Kankarai | Jarapada | 174 | Angul | 99.49 | 245.84 | Part |
| 4. | Raijharan | Jarapada | 170 | Angul | 57.85 | 142.95 | Part |
| 5. | Golagadia | Jarapada | 171 | Angul | 6.46 | 15.97 | Part |
| Total Area : | | | | | 409.87 | 1012.80 | |

BOUNDARY DESCRIPTION:

A-B The line start from "A" and proceeds towards south direction and reached "B" at the village boundary point of Golagadia and Chhotabereri.

- B-C The line starts from "B" and proceeds towards south up to "C" near to the village common boundary of village Chhotabereni and Kaunsidhipa.
- C-D The line "C" to "D" proceeds towards south direction through the village Kaunsidhipa and meets at village boundary of Kaunsidhipa and Rajjharan.
- D-E The line passes through the village Rajjharan and reaches at point "E" over plot number 1928 of village Rajjharan.
- E-F The line proceeds towards south direction and meet at point "F" over the same plots number 1928 of village Rajjharan.
- F-G The line starts from "F" and proceeds in southeast direction and meet at point "G" which is in the village Kankarai.
- G-H The line proceeds in the north direction and point "H" of the common boundary point of village Kankarai and Kaunsidhipa.
- H-I The line proceeds towards north direction and meet at point "I" which is the common boundary of village Kaunsidhipa and Chhotabereni.
- I-J The line starts from "I" and proceeds towards north direction and meet at point "J" which is in the village boundary of Chhotabereni.
- J-A The line proceeds in the north boundary of village Chhotabereni and meet at point "A" of Golagadia village.

[F. No. 43015/26/2008-PRIW-I (Vol.II)]

S. C. BHATIA, Director

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

शुद्धि-पत्र

नई दिल्ली, 31 जनवरी, 2011

का.आ. 832.—पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) के नियम 2(क) के अंतर्गत, मैसर्स रिलायंस गैस ट्रान्सपोर्टेशन इंफ्रास्ट्रक्चर लिमिटेड (आर.जी.टी.आई.एल.) के द्वारा महाराष्ट्र राज्य में प्राकृतिक गैस पाइपलाइन बिछाई जाने हेतु सक्षम प्राधिकारी के कार्यों का निर्वहन करने के लिए, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की, भारत के राजपत्र दिनांक 22 जनवरी, 2005 को प्रकाशित, अधिसूचना का.आ. 259 दिनांक 18 जनवरी, 2005 द्वारा पदस्थापित, मैं, एस. डी. भिसे, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) नियमावली, 1963 के नियम 4 के उप नियम (1) के नीचे भिसे, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) नियमावली, 1963 के नियम 4 के उप नियम (1) के अंतर्गत अधिकारों के अनुपालन में, घोषणा करता हूँ कि भारत के राजपत्र दिनांक 27 फरवरी, 2010 को प्रकाशित अधिसूचना का.आ. 571 दिनांक 22 फरवरी, 2010 के हिन्दी रूपान्तर के अंतर्गत अनुसूची में पृष्ठ संख्या 1123 पर क्रम संख्या 9 पर प्रकाशित गांव का नाम "दहिवडी" के स्थान पर "धालवडी" पढ़ा जाए।

[फा. सं. एल. 14014/8/2010-जी.पी.]

के. के. शर्मा, अवर सचिव

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 28 फरवरी, 2011

का.आ. 833.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स केस्ट्रॉल इन्डिया लिमिटेड, कोलकाता के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 13/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 28-2-2011 को प्राप्त हुआ था।

[सं. एल-30012/37/2002-आई आर (एम)]

रमेश सिंह, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 28th February, 2011

S.O. 833.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No 13/2003) of the Central Government Industrial Tribunal/Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Castrol India Ltd. and their workman, which was received by the Central Government on 28-2-2011.

[No. L-30012/37/2002-IR(M)]

RAMESH SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 13 of 2003

PARTIES :—Employers in relation to the management of M/s. Castrol India Limited

And

Their workman

Present : Mr. Justice Manik Mohan Sarkar,
Presiding Officer

APEARANCES:

In behalf of the Management : Mr. S. K. Karmakar,
Advocate with
Mr. S. Roy, Advocate.

In behalf of the Workman : Mr. M. Dutta, Advocate.,
State : West Bengal Industry : Petroleum

Dated 11th January, 2011.

AWARD

By Order No. L-30012/37/2002-IR(M) dated 20-2-2003 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

“Whether the punishment of dismissal imposed by the management of M/s. Castrol India Ltd., against Mr. Sheo Narayan Misser Ex-workman at their Paharpur Plant w.e.f. 12-8-1998 is justified ? If not, to what relief the workman is entitled ?”

2. A joint application has been filed today on behalf of both the parties annexing the copy of the memorandum of settlement of the dispute under present reference. It is submitted by the Ld. Advocates representing both the parties that an Award may be passed in terms of the compromise as arrived at in the memorandum of settlement dated 11-1-2011.

3. I have gone through the terms of settlement as contained in the copy of the memorandum of settlement and those are found to be just and legal and in view of the same, the prayer from both the parties are accepted.

4. Let the present dispute be disposed of by way of an Award in terms of the memorandum of settlement dated 11-1-2011 arrived at in between the parties. A copy of the said memorandum of settlement is made part of this Award as Annexure-A.

5. Management is directed to handover the cheque in respect of the amount settled in the memorandum of settlement in favour of the workman concerned within three weeks from this date as stated in the memorandum of settlement.

JUSTICE MANIK MOHAN SARKAR, Presiding Officer

Dated, Kolkata, 11th January, 2011

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference Case No. 13 of 2003

In the matter of :

An alleged Industrial Dispute Between Employer in relation to the Management of M/s. Castrol India Limited, Dhuneseri House, 1st Floor, 4A Woodburn Park, Kolkata-700 020

....Company

And

Their workman Shri Sheo Narayan Misser
10/1, Mirpara Lane, Salkia, Howrah, (West Bengal)

....Workman

The humble joint petitioner on behalf
of both the parties above named :

Most Respectfully Sheweth

- During the pendency of the proceedings before this Tribunal, the parties to the dispute have started negotiation outside the Tribunal to amicable settle the dispute fully and finally.

2. Consequent upon discussions and negotiations, a settlement has been arrived at by and between the company and Shri Sheo Narayan Misser, the concerned workman and the terms and conditions thereof have been reduced in writing in a bipartite settlement. The copy of the said Memorandum of Settlement dated 11-1-2011 is annexed hereto and marked as annexure-A.
3. In view of the said settlement, the issues referred to for adjudication before this Hon'ble Tribunal have been finally resolved and/or settled.
4. The petition is made bonafide.

It is, therefore, humbly prayed that the Hon'ble Tribunal may be graciously pleased to pass an award in terms of the compromise arrived at in the settlement dtd. 11-1-2011 by and between parties

And for this act of kindness your petitioners as are duty bound shall ever pray.

ENCL: Annexure-A

MEMORANDUM OF SETTLEMENT

1. NAMES AND ADDRESSES OF THE PARTIES :

(a) M/S. CASTROL INDIA LIMITED
P-7 PAHARPUR SIDING ROAD
KOLKATA-700 088

— EMPLOYER/
COMPANY

(b) SHRI SHEO NARAYAN MISSER
10/1, MIR PARALANE
SALKIA HOWRAH-711106

— WORKMAN

2. (a) NAME OF THE PERSON
PRESENT REPRESENTING
THE EMPLOYER/COMPANY

— SIBABRATA
MAJUMDAR,
MANAGER
HR & ADMIN

(b) NAME OF WORKMAN
PRESENT

SHEO
NARAYAN
MISHER

3. SHORT RECITAL OF THE CASE :

Shri Sheo Narayan Misser, a workman of Paharpur Plant of Castrol India Limited was charge sheeted for commission of certain misconducts in accordance with the charge sheet dated 8-9-1997 followed by another charge sheet dated 2-4-1998. Separate domestic enquiries in line with the principles of natural justice were held into the charges levelled against Shri Sheo Narayan Misser in terms of the charge sheets dated 8-9-1997 and 2-4-1998 and Shri Sheo Narayan Misser having being found guilty was dismissed from the services of the Company with effect from 12-8-1998.

Shri Sheo Narayan Misser subsequently raised an industrial dispute on his dismissal before the Regional Labour Commissioner (Central), Calcutta and the conciliation process set in motion by the RLC(Central), Calcutta failed, following which the Central Government referred the dispute for adjudication to the Central Government Industrial Tribunal. During the pendency of the adjudication before the Hon'ble Central Government Industrial Tribunal the workmen Shri Sheo Narayan Misser has represented to the Management of Castrol India Limited for settlement of the dispute. Accordingly after bipartite discussions, the parties mutually arrived at an amicable settlement of the dispute on 11th January 2011 on the following terms and conditions :

4. TERMS OF SETTLEMENT :

It is agreed by and between the parties as follows :

4.1 That the workman shall not press his claim in the employment of the Company.

4.2.1 That the Company agrees to pay Shri Sheo Narayan Misser a sum of Rs. 7.5 Lacs (Rupees Seven Lacs and Fifty Thousand only) within 3 weeks of the date of signing of this settlement and Shri Sheo Narayan Misser agrees to receive the said sum as lump sum compensation for settlement of termination of his employment and also in full and final settlement of the dispute and also in final settlement of his claim over the employment in the Company including the payment of gratuity. Such payment shall however be subject to the provisions of Income Tax Act as applicable.

4.2.2. As requested by Shri Sheo Narayan Misser, out of the said sum of Rs. 7.5 Lacs (Rupees Seven lacs and fifty thousand only) payable to him, a sum of Rs 7 Lacs (Rupees Seven lacs only) will be paid to Shri Sheo Narayan Misser by an account payee cheque and the balance amount of Rs. 50,000 (Rupees Fifty thousand only) will be paid by an account payee cheque to Shri Madhusudhan Dutta, Advocate who has been representing his case, towards payment of the legal expenses incurred on Shri Sheo Narayan Misser's behalf in the case.

4.2.3. That on payment and receipt of the aforesaid total amount of Rs. 7.5 Lacs (Rupees Seven lacs and fifty thousand only) in the mode indicated in the Para 4.2.2 and by virtue of this settlement all disputes/claims/grievances of Shri Sheo Narayan Misser stand settled satisfactorily and no other amounts, statutorily or otherwise, are due to Shri Sheo Narayan Misser from the company.

4.3. The employer will endorse the provident fund withdrawal form to enable Shri Misser to withdraw the provident fund accumulations lying to his credit in his PF Account.

4.4. That Shri Sheo Narayan Misser agrees that in future he shall not make any claim either for reinstatement

and/or reemployment or any kind of employment to the company and shall not prefer any claim, monetary or otherwise, against the company before any courts of law Industrial Tribunal, Labour Court, controlling authority under the payment of Gratuity Act or any other authority or forum, as the case may be.

4.5. The parties agree to file this memorandum of settlement before the Hon'ble Central Government Industrial Tribunal with a joint prayer to pass a compromise award in terms of this settlement.

4.6 This settles all the issues and disputes fully with no right for further claims by either party to the settlement.

4.7. It is agreed by and between the parties here to that the copies of the settlement shall be jointly forwarded to the Asst. Labour Commissioner (Central), Regional Labour Commissioner (Central), Chief Labour Commissioner (Central), New Delhi and Secretary to the Government of India, Ministry of Labour, New Delhi.

Signature of the Parties

Sd/-

Sd/-

For and on behalf of the Company
(SIBABRATA MAJUMDAR)
MANAGER-HR AND ADMIN.

Signature of Workman
(SHEO NARAYAN MISSER)

Date : 11th January 2011

Witness : (1) Sibaji Raj 11-01-2011

(2) Netai Datta 11-01-2011

नई दिल्ली, 28 फरवरी, 2011

का.आ. 834.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स भारतीय जीवन बीमा निगम, चेन्नई के प्रबंधनतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 16/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 28-2-2011 को प्राप्त हुआ था।

[सं. एल-17012/16/2009-आई आर (एम)]
 रमेश सिंह, डेस्क अधिकारी

New Delhi, the 28th February, 2011

S.O. 834.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), (Ref. No. 16/2010) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. LIC of India and their workmen, which was received by the Central Government on 28-2-2011.

[No. L-17012/16/2009-IR(M)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 21st January, 2011

PRESENT:

A. N. JANARDANAN, Presiding Officer

INDUSTRIAL DISPUTE No. 16/2010

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Life Insurance Corporation of India and their Workmen]

BETWEEN

Sri M. Munusamy : 1st Party/Petitioner

Vs.

The Senior Divisional Manager,
 LIC of India,
 Chennai Division-I, 102,
 Anna Salai,
 Chennai-600 002

APPEARANCE:

For the 1st Party/
 Petitioner M/s. Balan Haridas,
 Advocates .

For the 2nd Party/
 Management. M/s A. Panneerselvam,
 N. Sakthivel, Advocates

AWARD

The Central Government, Ministry of Labour vide its Order No. L-17012/16/2009-IR(M) dated 22-4-2010 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the management of Life Insurance Corporation of India in imposing the punishment of removal from service upon Sri M. Munusamy, an ex-Development Officer is legal and justified? To what extent the workman is entitled for relief?”

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as ID 16/2010 and issued notices to both sides. Both sides entered appearance through their respective counsel and filed their Claim, Counter and Reply Statements as the case may be.

3. The Claim and Reply Statement averments bereft of unnecessary details are as follows :

The Petitioner, an agent under Respondent w.e.f. 1988 and appointed as Development Officer in 1995 at Chengalpet Branch office was alleged of having introduced two proposals on the life of one Mr. Ravendran on 30-3-2002 through Agent T. Sivaraman and A. Thirunavukarasu culminating in policies Nos. 713510618 and 713510617 while R. Ravendran had died on 20-10-2001, that he had, given his addresses in both the policies, that he had given moral hazard report in respect of the identity of the insurer, that he attempted to revive the policies relating R. Ravendran on 4-7-2002 by witnessing declaration of good health of deceased Ravendran and that he attempted to derive fraudulent benefits influencing the agents and to collude. He was suspended on 14-8-2004. To Show Cause Notice dated 24-8-2004 he gave explanation denying the allegations. He was charge sheeted on 7-1-2005 to which also he gave explanation. After a farce enquiry a report was drawn to which he offered comments as it being perverse. Show Cause Notice dated 17-4-2006 was issued proposing punishment of removal. He replied on 27-04-2006 disowning liability to be punished but punishment was imposed on 30-06-2006. Appeal was rejected on 16-08-2006 in a summary manner. A memorial before the Chairman was also rejected on 5-6-2007. The two policies were canvassed and introduced by agents T. Sivaraman and A. Thirunavukarasu. The agents had completed the medical examination of R. Ravendran on 30-2-2002 through Dr. Anand and had handed over the proposal and he countersigned the Agent Confidential Report. Petitioner acted bona fide on the basis of representation of the Agents. LIC had obtained letter to the effect that the proposals were not canvassed by the agents and thereafter introduced to the petitioner. It also availed the services of the agents against the petitioner which is foisted, showing hollowness of the charges. Agent Sivaraman had given false evidence as could be found established in the enquiry and also that he knew R. Ravendran. The Agent Tirunavukarasu had been doing the agency work through his Father himself not knowing the rules. No credence can be given to his evidence also. Tirunavukarasu attested the Agent Confidential Report. Petitioner had only witnessed the signature of the person who gave the policies to the petitioner's agent with no malafide intention. It was out of good faith placed on the agent. It was the agents who were to be proceeded against. The petitioner had been developing the business year to year with 42 agents canvassing the business under him. Proposals in respect of a dead person were not within his knowledge. The finding is without evidence only relying on witnesses, parties to the fraud. The enquiry is farce and in violation of principles of natural justice. The punishment is totally unjustified and grossly illegal. There is no loss to the Corporation nor gain to the petitioner. The punishment is grossly disproportionate and is liable to be interfered with under Section-11A of the ID Act. He has not been gainfully employed now. The complainant

Jayanthi is not a witness. It deliberately misdirected the Tribunal that the nature of job of the petitioner was supervisory not coming with the definition of workman which is held against by the Supreme Court.

4. Counter Statement contentions are as follows :

Mrs. Jayanthi, wife of Late R. Ravendran gave a complaint alleging the petitioner to have had arranged for issuing policies in the name of her deceased husband. It is on the basis of two moral hazard reports certified by the petitioner as to satisfaction about the identity of the parties and on the basis of independent enquiries that the two proposals were completed. Under Policy No. 713510618, the BOC Nos. 13827 dated 30-3-2002 and BOC No. 9584 dated 31-1-2002 in the names of Sri Sivaraman and Munusamy, the petitioner were adjusted, towards first premium. He was informed to have acted prejudicially to good conduct and to have committed breach of Regulation 21 and 24 read with Regulation-39(1) of LIC of India (Staff Regulations, 1960). The Agent Tirunavukarasu gave evidence that he has not canvassed or signed in the Agent's Confidential Report. The signature was found not to tally as deposed to by him. Agent Sivaraman signed in the proposal and ACR at the instance of the petitioner but not in the medical report. He also did not accompany the life assured for medical examination. His signature in the medical report also did not tally, which findings were not contested by the petitioner. Agents were not examined as Corporation witnesses. His malafide intention to defraud the Corporation is evident. He was given full opportunity in the enquiry. There is no violation of principles of natural justice. The punishment is not disproportionate. He being a Supervisory Officer on the Agents is not a workman under the ID Act. ID Act will not prevail upon provisions of LIC. The claim is to be dismissed.

5. Points for consideration are :

- (i) Whether the removal of Munusamy from service of the LIC is legal and justified?
- (ii) To what relief the concerned workman is entitled?

6. Evidence consists of the EX.W1 to EX.W17 on the petitioner's side and Ex. M1 on the Respondent's side, all marked on consent with no oral evidence adduced on either side.

Points (i) and (ii)

7. Heard both sides and perused the documents. It is argued on behalf of the petitioner that he as Development Officer believing his agent, known for several years accepted the proposal for the life assured on the deceased, R. Ravendran without being aware of the factum of his death. The proposal was by the agent and not at the instance of the petitioner. In the moral hazard report agent has also signed below the signature of the petitioner as Development Officer. The policy was proposed based on

the identification by the agent. In an anxiety to achieve target also petitioner has been acting in great momentum during the time of March. Even at the first explanation he has frankly disclosed the mistake. It is not a malafide act on the part of the petitioner. The Corporation was making use of the agents to charge the petitioner. It is the agents who introduced the proposer and not by the petitioner. The finding is perverse that the charge is proved. Petitioner cannot be held to have colluded with the agents in the absence of independent and reliable evidence. Regarding the signatures of the Agents they have a fickle minded attitude by owning signature and at times disowning it showing their infirmity in regard to their versions. Forensic opinion was not resorted to regarding disputed signatures. Petitioner may at the most be liable in negligence and not otherwise in any manner. There is no loss to the LIC. The policy has not been activated. The punishment is disproportionate to the gravity of the offence. In a case of grave charge the same has to be proved to the hilt.

8. Arguments on behalf of the Respondent are that the petitioner is not a workman and that the reference is bad in law. The policy is, revived after 2 years giving declaration certifying good health of the proposer which is with clear intention to defraud. It is a pre-planned fraud on the part of the petitioner. The petitioner has attested certificate of Ravendran. One nominee for the policies is daughter of petitioner's driver. Signature of the life of the assured is forged. So also the signatures of the agents have been forged, all pinpointing to the fact that every fraudulent act or the series of acts necessary to culminate the proposal into acceptance were manipulated at the instance of the petitioner with fraudulent intention to cheat the LIC to get himself wrongfully enriched. But the same got frustrated at the instance of the wife of the deceased, the complainant. First premium was adjusted by the cheque issued in the name of petitioner. For second proposal the nominee is Jayanthi attested by the petitioner. Petitioner certified character also for renewal of policy. The signature of the life assured is also forged. The testimony of the witnesses is consistent pointing to the misconduct of the petitioner. Petitioner alone is responsible who acted with malafides. It is not a mere instance of negligence.

9. On a consideration of the rival contentions scrupulously I am led to conclude that the argument of the Respondent that the petitioner is not a workman and therefore the ID is not maintainable in this forum is not sustainable as a position settled by the Apex Court. Regarding the charges levelled against the petitioner there is nothing to hold that the enquiry was not held fairly or properly or not in a legal manner or that the finding is perverse. That the petitioner was only negligent and by reason of the same alone the impugned offending acts supervened cannot be heard to say at all. Discernibly this is not a case in which the proposals were emanating from the agents and were thereafter being dealt with by the

petitioner as Development Officer. The fact as brought out is that the petitioner himself was championing everything in relation to the proposal until it culminated into the policies duly fulfilling the formalities therefor by forging signatures of the agents, the life assured and so on. When the proposals really originate through the agents the enquiry is regarding the genuineness of the transaction, identity of the life assured, medical certificates, etc. and the same have to be independently verified by the Development Officer. In this case discernibly the formalities are got manipulated at the instance of the petitioner in as much as the proposals were pioneered by him alone who has been making use of the services of the agents known to him for 7 years. The case of the petitioner that the Corporation has been making use of the agents to implicate the petitioner is not apt to be believed. Their evidence shows that they have not proposed the policies. Signature of one agent is seen forged while the signature of the other was managed to be obtained by the petitioner as is spoken to by the agents in the enquiry. The non-examination of Jayanthi, the complainant is not material causing prejudice either to the Management or to the petitioner in that the documents themselves constituting the best evidence possible has come on record speaking much against the petitioner himself. It could be seen that the enquiry went off well. The finding is also not tainted in any manner so as not to be kept intact. The punishment of removal from service is just proportionate to the gravity of the offence. That there was no loss or prejudice to the Management or that there is no gain to the petitioner is not a relevant consideration in the matter of adjudication or as to the punishment to be imposed. It is the propensity to commit misconduct which is to be taken into account. Though it is argued that in a case of grave charge the misconduct should be proved to the hilt to warrant a finding of guilty followed by a severe punishment, that contention is not applicable in this case in view of the fact that the evidence adduced in this case is sufficient enough to establish the guilt against the petitioner beyond reasonable doubt which is enough to prove a fact to the hilt though in industrial adjudication a misconduct needs to be proved on preponderance of probability. In other words any material logically probative to a prudent mind and is reliable and convincing with rational nexus to the facts in issue or relevant facts leading to the conclusion as could reasonably be arrived at as to the disputed facts is enough to render adjudication by men with right human perceptions with no vested interests other than to find out what the truth is and who could be so discerned in an objective approach. From the conduct of the Enquiry Officer or the other concerned authorities it could not be found to have acted in any biased, arbitrary or illegal manner to result in any prejudice to the petitioner. It is also said that there is no allergy even to hearsay provided there is rational nexus and credibility with the facts to the hearsay matter relied upon or sought to be relied upon.

The decision of the Apex Court in LIC of INDIA VS. R. SURESH in Civil Appeal No. 2004/2008 rendered by his Lordship S.B. Sinha dated 14-3-2008 cannot be found applicable to the facts of this case because therein the misconduct of the delinquent is attributable to carelessness whereas in this case it is not so.

10. The above discussion leads to the conclusion that the petitioner is guilty of the proved charges held in an enquiry validly conducted and therefore the enquiry and the finding are fair and proper and are to be allowed to remain intact. The punishment also cannot be said to be disproportionate to the gravity of the misconduct. The same is also only to be upheld and it is so ordered. The petitioner is not entitled to any relief.

11. The reference is answered accordingly.

(Dictated to the PA, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 21st January, 2011)

A. N. JANARDANAN, Presiding Officer

Witnesses Examined :

| | | |
|------------------------------|---|------|
| For the 1st Party/Petitioner | : | None |
| For the 2nd Party/Management | : | None |

Documents Marked :

On the Petitioner's side

| Ex. No. | Date | Description |
|----------------|-------------|---|
| Ex. W1 | 14-8-2004 | Order of Suspension |
| Ex. W2 | 24-8-2004 | Show Cause Notice |
| Ex. W3 | 14-9-2004 | Reply to Show Cause Notice |
| Ex. W4 | 7-1-2005 | Charge Sheet |
| Ex. W5 | 15-2-2005 | Reply to Charge Sheet |
| Ex. W6 | 17-1-2006 | Petitioner written submission |
| Ex. W7 | 2-2-2006 | Letter enclosed with enquiry report. |
| Ex. W8 | 9-2-2006 | Petitioner commence on the enquiry report |
| Ex. W9 | 17-4-2006 | Second Show Cause Notice |
| Ex. W10 | 27-4-2006 | Reply to Second Show Cause Notice |
| Ex. W11 | 30-6-2006 | Order of the Disciplinary Authority |
| Ex. W12 | 16-8-2006 | Appeal filed by the petitioner |
| Ex. W13 | 11-12-2006 | Order of the Appellate Authority |
| Ex. W14 | 18-1-2007 | Memorial filed by the petitioner |
| Ex. W15 | 5-6-2007 | Order passed on memorial |
| Ex. W16 | — | Enquiry Proceedings |

Ex. W17 — Documents marked in the enquiry
(series)

On the Management's side

| Ex.No. | Date | Description |
|---------------|-------------|---|
| Ex. M1 | 12-12-2005 | Disciplinary proceedings brief report and findings |

नई दिल्ली, 28 फरवरी, 2011

का.आ. 835.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन रेआर अर्थस लिमिटेड के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 36/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 28-2-2011 को प्राप्त हुआ था।

[सं. एल-29011/11/2010 आई आर (एम)]
रमेश सिंह, डेस्क अधिकारी

New Delhi, the 28th February, 2011

S.O. 835.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), (Ref. No. 36/2010) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Rare Earths Ltd. and their workman, which was received by the Central Government on 28-2-2011.

[No. L-29011/11/2010-IR (M)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHENNAI

Monday, the 21st February, 2011

Present :

A. N. JANARDANAN, Presiding Officer

INDUSTRIAL DISPUTE No. 36/2010

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Indian Rare Earths Ltd. and their Workman]

BETWEEN

Kanyakumari District
Mineral Workers &
Staff Union
Near IRE Ltd.,
Manavalakurichi
Kanyakumari

1st Party/Petitioner

And

The Head : 2nd Party/
Indian Rare Earths Ltd., Respondent
Manavalakurichi

APPEARANCES:

For the 1st Party/ : Ex-parte
Petitioner

For the 2nd Party/ Management M/s Ramashubramanian &
Associates

AWARD

The Central Government, Ministry of Labour vide its Order No. L-29011/11/2010-IR(M) dated 30-9-2010 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

"Whether the action of the management of Indian Rare Earths Ltd., Manavalakurichi in changing the effective date of promotion of Sri J. Francis from 1-1-2000 to 2-7-2001 due to the revised settlement is just and legal ? What relief the workman concerned is entitled to?"

2. After the receipt of the Industrial Dispute, this Tribunal has numbered it as ID 36/2010 and issued notices to both sides. The 1st Party though served with notice with acknowledgement due in spite of a second notice did not appear. Second Party entered appearance through his counsel. In spite of several notices issued petitioner has not turned up and at last he was called absent and set ex-parte. Respondent/2nd Party filed statement of objections.

3. Points for consideration are

- (i) Whether change of the effective date of promotion of Sri J. Francis from 1-1-2000 to 2-7-2001 is just and illegal?
- (ii) To what relief the concerned workman is entitled?

Points (i) & (ii)

4. Petitioner being absent and set ex-parte no evidence is forthcoming to substantiate his claim. No Claim Statement also has been filed on behalf of the petitioner.

5. The case of the Respondent raised in the statement of objection is that under recruitment/promotion policy w.e.f. 1-7-1999 under Section-12(3) settlement petitioner stood promoted as Tradesman (E) Operator-cum-Mechanic w.e.f. 1-1-2000. Under a revised settlement dated 21-2-2001 by way of rectification of anomalies arising out of fixation of effective date of implementation of revised settlement the said effective date was changed to 2-7-2001. Once the date of implementation to 2-7-2001 automatically the same has to be given effect to by revising those promotions even earlier considering earlier date of settlement which was on 1-7-1999. It is an automatic

process to suitably amend the order to give effect to the revised effective date. Hence the Petitioner Union cannot raise any grievance out of the same without transgression of 12(3) settlement. There is no need for any concern for the petitioner that any amount would be recovered from the salary of the petitioner due to the change in the promotion date since decision has been taken by the Management with the approval of the Head Office that any change in the date of promotion consequent upon revised effective date of implementation of said policy no amount is to be recovered, which is true in respect of the petitioner as found in verification.

6. The materials placed on behalf of the Respondent not being traversed would safely be relied upon as the true state of affairs obtaining in relation to the referred question, possibly suggesting a valid inference that the petitioner is no longer prejudiced by way of the impugned action and that has been the reason for him not to pursue the dispute before this forum after his having been served with notices. Therefore, it follows that the action of the Management is just and legal. The petitioner is not entitled to any relief.

7. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 21st February, 2011)

A. N. JANARDANAN, Presiding Officer

नई दिल्ली, 28 फरवरी, 2011

का.आ. 836.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महानगर गैस लिमिटेड, मुम्बई के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, मुम्बई के पंचाट (संदर्भ संख्या 45/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 28-2-2011 को प्राप्त हुआ था।

[सं. एल-30011/95/2002-आई आर (एम)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 28th February, 2011

S.O. 836.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 45/2003) of the Central Government Industrial Tribunal/Labour Court, Mumbai now as shown in the Annexure in the industrial Dispute between the employers in relation to the management of Mahanagar Gas Ltd. and their workman, which was received by the Central Government on 28-2-2011.

[No. L-30011/95/2002-IR (M)]

RAMESH SINGH, Desk Officer

ANNEXURE
**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2,
MUMBAI
PRESENT**

- (1) MAHANAGAR GAS LTD.
(2) M/S. PARKING PLACEMENTS

- (1) The Managing Director
Mahanagar Gas Ltd.
Pay & Accounts Building
Bandra Kurla Complex
Bandra (E), Mumbai 400 051.

- (2) The Proprietor
Parking Placements
7/89, Old D.N. Nagar, Apna Bazaar
Near Sitladevi Temple
Andheri (W), Mumbai 400 014.

AND

THEIR WORKMEN.

The General Secretary
Petroleum Employees Union
Tel Rasayan Bhavan
Tilak Road, Dadar
Mumbai 400 014.

APPEARANCES:

FOR THE EMPLOYER No(1): Mr. GD.Talreja,
Representative.

No.(2): Mr. S.P.S. Bohra,
Representative.

FOR THE WORKMEN : Mr. J.H. Sawant,
Advocate.

Mumbai, dated the 2nd December 2010.

AWARD

The Government of India, Ministry of Labour & Employment by its Order No.L-30011/95/2002-[IR (M)], dated 29-8-2003 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

"Whether the strike notice served by Petroleum Employees Union over permanency/continuation in job of some of the workmen working under the management of Mahanagar Gas Ltd., is justified ? If so, what relief the concerned workmen (list enclosed) are entitled ?"

List of workmen

Sr No. Name

1. Rajendra B. Jadhav
 2. Vinod B. Howal
 3. Mahendra K. Parab
 4. Pravin S. Kadam

5. Santosh D. Nikam
 6. Ganesh V. Palande
 7. Ganesh D. Bagwe
 8. Ratnadeep R. Maladkar
 9. Sanjay D. Gosavi
 10. Kamlesh B. Dhuri
 11. Gulam M. Shaikh
 12. Vijay T. Belwekar
 13. Sharad S. Patil
 14. Rasik Dondekar
 15. Vijay T. Bandagale
 16. Sushant Pawar
 17. Satish V. Thale
 18. Gokul M. Patil
 19. Sandesh S. Gahanekar
 20. Rajesh M. Bandekar
 21. Ashok S. Jadhav
 22. Hanmant D. Pawar
 23. Devendra D. Nagarkar
 24. Sunil B. Pawar
 25. Suresh R. Mhaske
 26. Siyaram M. Tiwari
 27. Sandip More
 28. Suresh Bhogi
 29. Ramesh M. Jawle
 30. Sheeraj B. Tamboli
 31. Shreepad S. Dalvi
 32. Mahesh Gaikwad
 33. Kailas M. Chikne
 34. Pradeep B. Manjre

2. After receipt of this reference, notices were issued to both the parties. Second party filed its statement of claim at Ex-10. According to the second party union, Shri Rajendra Bhiku Jadhav & 34 other workmen as per the list given in the statement of claim are the workmen employed since the year 1995 by the management of Mahanagar Gas Ltd. for its permanent work in the capacity of Survey Assistant, Technician, Driver, Labourer, Store Keeper & CAD Operator. They are in continuous employment of Mahanagar Gas Ltd. and they were shown as employees through the contractor M/s. Parking Placements. However the said contract was sham, bogus & mere camouflage to deprive the workmen from the benefits of permanent workmen. Infact these workmen have worked for the management and in the absence of contractor, these workmen have been paid wages directly. The management has terminated the services of these workmen from the respective dates shown in the chart in the statement of claim. Their services were terminated as they demanded permanency and benefits thereof. According to the union services of these workmen were terminated by way of victimization and without following the principles of natural justice and in contravention of provisions of Industrial Disputes Act. The workmen were working directly for the management and receiving wages through management. They are entitled to be permanent and consequential benefits thereof.

3. As the first party denied their right of permanency and consequential benefits and terminated their services illegally, the union applied to Assistant Labour Commissioner (C) who tried for conciliation. As conciliation failed, ALC (C) made a report thereof to the Government of India, Ministry of Labour. The Ministry of Labour thus sent the aforesaid reference to this Tribunal for adjudication.

4. First party No.1, i.e. Mahanagar Gas Ltd. resisted the claim vide its written statement Ex-21. They denied that Mahanagar Gas Ltd is employer of the workers. They denied that the second party are their workmen. M/s. Mahanagar Gas Ltd. is not proper and necessary party. Shri Sant Prakash Singh Vohra, Proprietor of Parking Placements who is a contractor, is the employer of these workmen. There is no master-servant relation between Mahanagar Gas Ltd. and second party. Petroleum Employees Union have issued strike notice dt. 19-7-2000 over permanency/continuation of some of the workmen concerned in the present reference. The said notice became redundant, infructuous as the union did not go on strike in response thereto. After the judgement of Supreme Court in Steel Authority of India, such a reference is untenable on behalf of contract labourers. The Petroleum Employees Union has also filed complaint of unfair labour practices demanding permanency which was opposed by the company. They denied all the contents in statement of claim and pray that the reference be rejected as workmen are not their employees.

4. First party No.2 also resisted the claim vide its written statement- cum -reply at Ex-16. According to him, he is proprietor of first party No.2 and conducting business of placement service in the city of Mumbai. According to him, he entered into a contract with first party No.1 for recruiting few employees in various departments on temporary basis. The said contract was entered into and was renewed month to month depending upon exigencies of work. He is not aware whether the employees have raised any demand in parity with the permanent employees of first party No. 1. According to him, second party has no *prima facie* case, therefore he prays that their claim be rejected.

4. My learned Predecessor has framed the following issues for determination.

| Issues | Findings |
|--|---------------------|
| (i) Does second party proves that he was employed by first party and the employer-employee relationship exists between them? | No |
| (ii) Is he entitled for regularization with first party? | No |
| (ii) What order? | As per final order. |

Reasons

Issues nos. 1 & 2

5. This reference is pending since 2003. It was also kept for amicable settlement in Lokadalat. However no

settlement could be arrived at. Therefore, it was kept for recording of evidence by way of affidavit. Number of adjournments were given to second party union to file affidavit of the concerned witnesses. However they failed to file their affidavit and also were not attending the Court, therefore, notice was issued to the concerned office bearer of second party. Inspite of service of notice, they remained absent. Therefore, I dispose of this reference.

6. In the case at hand the fact is not disputed that there was contractor through which the workmen were recruited. According to second party, the said contract is sham, bogus and camouflage in order to deprive them from the benefits of permanency. The contractor is also party to this reference as the first party No.2. In his reply cum Written Statement Ex-16, he has contended that he has recruited these workmen on temporary basis for First party No. 1. Heavy burden was on the second party to show and prove that the said labour contract was sham and bogus. The second party was required to lead evidence to that effect. However, in the case at hand, none of the workmen or the office bearers of the union remained present and filed affidavit in support of their pleadings. It is well settled principle of Evidence Act that party who makes some affirmative averments has to prove the same such as fraud, sham and bogus etc. In this backdrop, I come to the conclusion that the second party failed to prove that the labour contract is sham and bogus as they have not lead any evidence. Therefore they are not entitled to claim permanency and also not entitled to get all the benefits thereof. Therefore I decide issues Nos. 1 & 2 in the negative. As a result, reference deserves to be rejected. Hence the order:

ORDER

Reference stands rejected.

Date : 2-12-2010

K. B. KATAKE , Presiding Officer

नई दिल्ली, 28 फरवरी, 2011

का.आ. 837.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड, मुम्बई के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण, नागपुर के पंचाट (संदर्भ संख्या 9/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 28-2-2011 को प्राप्त हुआ था।

[सं. एल-30011/29/2002-आई आर (एम)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 28th February, 2011

S.O. 837.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), (Ref. No. 9/2003) of the Central Government Industrial Tribunal, Nagpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the

management of Hindustan Petroleum Corporation Ltd. and their workman, which was received by the Central Government on 28-2-2011.

[No. L-30011/29/2002-IR(M)]

RAMESH SINGH, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL, NAGPUR**

No. 2/03

Diary

| Date | Exhibit No. | Progress |
|-----------------------------|---|----------|
| 49/17-1-2011 | | |
| Petitioner/Party No.1 | The General Secretary, Petroleum Workers'Union (WZ), L.P.G. Plant, Khapri, Nagpur | |
| Respondent/ : Party No.2 | Versus The Sr. Regional Manager (R), Hindustan Petroleum Corp. Ltd., LPG Plant, Khapri, Nagpur | |

AWARD

(Dated: 17th January, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of the Hindustan Petroleum Corp. Ltd., LPG Plant and their workman, Shri D.M. Patil through union for adjudication, as per letter No.L-30011/29/2002-IR(M) dated 21-10-2002, with the following schedule :—

"Whether the action of the management of Senior Regional Manager, Hindustan Petroleum Corporation Ltd, LPG Plant, Khapri, Nagpur in alleged illegal curtailing the facility of Shri D. M. Patil, LPG Operator in regard to payment of Professional Tax w.e.f. Feb.,2000 without giving any reason & without giving proper opportunity to hear the concerned was legal, proper and justified? If not, what relief the said workman is entitled and from what date?"

2. On receipt of the reference, the workman, Shri D.M.Patil (hereinafter referred as "the workman") and the management of Hindustan Petroleum Corporation Ltd (in short "HPCL") were noticed to file their respective statement of claim and written statement, in response to which, the workman through union filed his statement of claim, whereas the management filed their written statement.

3. The case of the workman is that he was working in LPG Plant of HPCL at Khapri, Nagpur and he was appointed as a general workman by order dated 3-1-1990 and he is a physically handicapped person and he is physically handicapped on his left leg since his birth and while working with the HPCL, he was promoted to General Workman Grade MO-I, then to General Workman Grade

MO-3 and from Salary Grade MO-3 to Salary Grade MO-4 w.e.f. 1.1.1998. As he is physically handicapped person, he was exempted from paying Professional Tax, in view of the provisions of Maharashtra State Tax on Profession, Trade, Calling & Employment Act, 1975, but surprisingly, all of a sudden, and without giving any notice to him, the management curtailed the said facility from the month of January, 2000 and started deducting professional tax and though he made representation about the same to the management, the management did not pay any heed to the same and as such, the matter was raised before the ALC and on failure of the conciliation, failure report was sent to the Central Government. The workman prayed for a direction to the management not to curtail the exemption facility of payment of professional tax and for refund of the amount of professional tax deducted from his salary w.e.f. February, 2000.

4. The management in its written statement admitted about the appointment and the promotion of the workman. However, it is specifically pleaded that initially all physically handicapped employees of the Party No.2 were getting exemption from payment of professional tax, irrespective of percentage of their disability, but in July, 1998, it was noticed by them that such exemption to all the physically handicapped employees was not in conformity with the Maharashtra Professional Tax Act, 1975, so, all the physically handicapped employees, who were availing the benefits of exemption were advised to submit the certificate issued by the Medical Authority in respect of their disability for review and continuation of the said exemption and it was found from the medical certificate, submitted by the workman that his physical disability is only 40% and according to Section 27 of the Maharashtra Professional Tax Act, exemption of payment of professional tax is to be granted only to such physically handicapped employees, whose permanent physical disability is more than 50% in one limb and as the workman was found to be physically disabled to the extent of 40%, he was found not eligible to get the exemption from payment of professional tax and as such, there was deduction of professional tax from February, 2000 from his pay and assuch the workman is not entitled for any relief.

5. It is found from the record that from 23-8-2004 and thereafter the workman did not appear in the case to contest the same. Subsequently, the management also did not attend the Tribunal so the case was closed and posted for award.

Perused the documents filed by the management from the copy of the medical certificate submitted by the workman; it is found that the nature of his disability is 40%. It is also found from section 27(A) of the Maharashtra State Tax on Profession, Trade, Calling & Employment Act, 1975 read that rule 32 of the Maharashtra State Professional Tax Rule that for getting exemption from paying professional tax, it is necessary that the person should have permanent physical disability of more than 50% in one limb, or permanent physical disability of more than 60%, in two or more limbs. As the workman is disabled of 40% only in one limb, he is not entitled for exemption from paying professional tax. Hence, it is ordered:

ORDER

The action of the management of Senior Regional Manager, Hindustan Petroleum Corporation Ltd, LPG Plant, Khapri, Nagpur in curtailing the facility of Shri D.M.Patil, LPG Operator in regard to payment of Professional Tax w.e.f. Feb., 2000 is legal, proper & justified. The workman is not entitled for any relief.

J.P. CHAND, Presiding Officer

नई दिल्ली, 28 फरवरी, 2011

का.आ. 838.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दिल्ली डिवलपमेंट ऑथोरिटी के प्रबंधतंत्र के संबद्ध नियोजकों और कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1 नई दिल्ली के एचाट (संदर्भ संख्या 41/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-02-2011 को प्राप्त हुआ था।

[सं. एल-42012/39/2009-आई आर (डी यू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 28th February, 2011

S.O. 838.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 41/2009) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Delhi Development Authority and their workmen, which was received by the Central Government on 28-02-2011.

[No. L-42012/39/2009-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE DR. R.K. YADAV, PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 1, KARKARDOOMA COURTS
COMPLEX, DELHI

I.D. No. 41/2009

Shri Sukhdev Singh S/o Shri Prehlad Singh,
C/o Shri Aditya Aggarwal, 478-479, Western Wing,
Lawyer's Chambers, Tis Hazari Courts, Delhi.

.... Workman

Versus

The Superintending Engineer,
Delhi Development Authority,
Civil Circle, E-11/DDA South Western Divn. No. 7,
DDA Sector-5, Dwarka, New Delhi.

....Management

AWARD

A mate joined on muster roll with the office of Executive Engineer Housing Division No. 8, D.D.A. on 26-8-81. He was converted as work charge mate on 6-3-84. Thereafter he became irregular in attending to his official duties. On various intervals he remained absent unauthorizedly. On 1st of September, 2004 he absented himself from his duties without any intimation to his authorities. Various letters were sent calling upon him to report for duties. When desired result was not achieved, he was called upon to join his duties by way of publication in newspapers, but to no avail. His employer terminated his services on 25-7-2006. Order dated 25-7-2006, terminating his services, was served upon him.

2. He came out of slumbers, when termination order was received. He submitted an application, seeking reinstatement in services. Demand notice was sent by him, but it was declined. He raised a dispute before the Conciliation Officer seeking his reinstatement in service. Since conciliation proceedings failed, appropriate Government referred the dispute to this Tribunal for adjudication, vide order No. L-42012/39/2009-IR (DU), New Delhi, dated 30-9-2009, with following terms:

"Whether the action of the management of Superintending Engineer, Delhi Development Authority, in terminating the services of Shri Sukh Dev Singh w.e.f. 25-7-2006 is legal and justified? If not, what relief the workman is entitled to?"

3. Claim statement was filed by Shri Sukhdev Singh pleading therein that he joined services with D.D.A. on 26-8-81 as muster roll mate. On 6-3-84 he was promoted as work charge employee. Since he was having unblemished record of his services, he was promoted to a regular post in 1990. He served his superiors efficiently and with dedication. He projects that he fell seriously ill on 1-9-2004. He submitted a leave application from 1-9-2004 to 16-10-2004, which was duly sanctioned. Letters dated 6-10-04 and 20-10-2004 were sent to him by registered post. In pursuance of those letter he sent his son to the management, for passing over information to the effect that he was seriously ill. He also sent information about his illness to the management by way of telephonic message. Medical certificates were also sent by him. He could recover from his illness on 7-8-2006. He wrote letter dated 8-8-2006 informing the management that he had applied for leave which was sanctioned also. He reported for his duties on next day and came to know about termination of his services.

4. The claimant presents that his services were terminated, without giving him any reasonable opportunity to explain facts. He served the management for more than 240 days and no notice or pay in lieu thereof, besides retrenchment compensation was offered. Termination of his services are also in violation of the provisions of section 25-G and 25-H of the Industrial Disputes Act, 1947 (in short the Act). Demand notice was sent to the management on

22-3-2008. Reply, submitted to his demand notice, is vague and baseless. His dismissal amounts to an illegal, arbitrary and unjustified act. He claims that he may be reinstated in service with full back wages and all consequential benefits.

5. His claim was resisted by the management pleading that the claimant remained absent in unauthorized manner for a considerable long period. Various letters and memos were sent to him, besides publication in newspaper calling upon him to join his duties. Since he opted not to join his duties, his services were rightly dismissed on 25-7-2006, after giving him ample opportunity to join his duties. He was a habitual absentee, whose record of absence from 1987 till 2006, which presents a horrid picture.

6. Management does not dispute that Shri Sukhdev Singh joined as a mate on muster roll w.e.f. 26-8-81. It had been projected that he was converted as work charge mate on 6-3-84. However, it has been denied that he was appointed against a regular post in 1990. He absented himself from his duties w.e.f. 1-9-2008 till 25-7-2006. It has been denied that he informed the management that he was suffering from serious ailment. It has further been disputed that he sent information through his son. It has been claimed, that various letters and memos were written calling upon him to join his duties. When notice published in Hindi as well as English newspapers, calling upon him to join his duties, was not responded the management was left with no option but to terminate his services on 25-7-2006. It has been claimed that there was violation of the provisions of section 25-F or sections 25-G and 25-H of the Act. No charge sheet or enquiry was expedient in the matter. Termination of his services was in consonance with rules. His claim is liable to be dismissed.

7. Out of pleadings of the parties, following issues were settled:-

1. Whether the workman was on leave w.e.f. 1-9-2004 to 25-2-2006 on medical grounds?
2. Whether the management was justified in terminating services of the workman on the ground of his long absence?
3. As in terms of reference?
4. Relief.

8. Claimant tendered his affidavit Ex. WW1/A as evidence, in support of his claim. He was cross-examined at length on behalf of the management. Shri I.J. Gupta, Executive Engineer, tendered his affidavit Ex. MW1/A as evidence for the management, besides certain documents. He was cross examined at length on behalf of the claimant. No other witness was examined by either of the parties.

9. Arguments were heard at the bar. Shri Aditya Aggarwal, authorised representative, advanced arguments on behalf of the claimant. Shri Ashish Sharma, authorised representative, advanced arguments on behalf of the management. I have given my careful consideration to the

arguments advanced at the bar and cautiously perused the record. My findings on issues involved in the controversy are as follows:

Issue No.

10. Sukhdev Singh swears in his affidavit Ex. WW1/A that he was suffering from serious illness w.e.f. 1-9-2004 and moved an application for medical leave till 16-10-2004. He admits that memorandum dated 6-10-2004 and 20-10-2004, sent by the management, were received by him. He sent his son to inform his superiors that he was seriously ill. He informed the management telephonically too about his illness. He sent medical certificate in respect of his illness. During the course of his cross-examination, he projects that Ex. WW1/M1 is the copy of the leave application, which was moved by him. He explains that the said application was submitted by him on 17th of October, 2004. He concedes that no other leave application was moved by him. It is thus obvious that the claimant did not move any application for leave for the period from 17-10-2004 till 25-7-2006. It is not his case that his leave application Ex. WW1/M1 was granted by the management. When application Ex. WW1/M1 is perused, it came to light that ailment, from which the claimant was suffering, was not mentioned therein. The application does not contain a recital to the effect that it was supported by a medical certificate. As presented by the claimant, Ex. WW1/M1 was submitted by him on 17th of October, 2004. He nowhere explains that this application was submitted by him personally or through post or a messenger. In case the application was sent through post or a messenger, the claimant ought to have explained as to why he seeks leave up to 16-10-2004, when he opted not to report for his duty on 17-10-2004. For want of facts, relating to ailment, medical certificate and fitness certificate, application, Ex. WW1/M1 nowhere espouse a case to the effect that the claimant fell ill and thereafter he submitted the leave application.

11. Claimant admits that memo dated 6-10-2004 and other dated 20-12-2004 were received by him. When memo dated 6-10-2004, which was inadvertently exhibited as Ex. WW1/M1, was perused it crept over the record that the claimant was called upon to join his duties at the earliest, since he was absconding w.e.f. 1-9-2004. He was reminded that his absence from duty may invite an action against him. When this memo was served upon the claimant, it was incumbent upon him to offer an explanation for his absence. Claimant has not offered any explanation in respect of his absence, which fact make it clear that story of ailment was subsequently concocted. When Ex. WW1/M1 was submitted on 17-10-2004, the claimant ought to have explained therein that he could not join his duties in response to memo dated 6-10-2004, on account of his ailment. Absence of such an explanation speak volumes about the date of Ex. WW1/M1 and highlight that it was moved by him at a subsequent stage, much later than that date.

12. Memo dated 20-10-2004, proved as Ex. WW1/M2, was admittedly served upon the claimant. On the strength of this memo he was reminded that in spite of service of latter dated 6-10-2004, he was absent from his duties, without any permission or sanction of cases. He was called upon to join his duties, failing which an action was inevitable against him. It is not the case of the claimant that he responded to that memo and joined his duties. He had made even a whisper of facts that in response to that memo he had sent a written reply, supported by medical certificate. He projects that he had sent his son to the management when these memos were received by him. No evidence has been produced by him to substantiate those facts. He has not bothered to bring his son in the witness box to prove that when aforesaid memos were received, he was sent to the office of the management alongwith an explanation supported by medical certificate. He had not deposed to this effect that when memo dated 20-12-2004 was served, he sent an application for leave. Therefore, theory of being on leave, on account of ailment, does not move ahead.

13. Shri I.J. Gupta projects that memo dated 8-8-2005, which is Ex. WW1/M3, was sent to the claimant by registered post. On that proposition the claimant concedes that the said memo bears his correct residential address. Memo dated 15th of October, 2005, was also sent by registered post which has been proved as Ex. WW1/M4. Claimant admits that this memo also bears his correct residential address. However, he disputes that these memos were received by him. Except his bald assertion, no evidence was produced by him to rebut deposition of Shri Gupta that these memos were served upon the claimant. It is not case of the claimant that he was not residing at village Gochhi, District Jhajjar, Haryana, his native village, in those days. When a letter is posted at correct residential address of the addressee, every presumption lies in favour of the fact that it was delivered to the addressee by the postal authorities. Claimant has not been able to rebut that presumption. Therefore, it is clear that these memos were served upon the claimant and he opted neither to send an explanation nor to join his duties. Memo dated 31-1-2006, which has been proved as Ex. WW1/M5 was sent at the residential address of the claimant through a messenger. It was received by Preet Singh, son of the claimant on 3-2-2006. Photo copy of Poon Book has been proved as Ex. MW1/W7, to prove that it was received by the son of the claimant. The claimant nowhere disputes that the said memo was received by his son. On the strength of memo Ex. WW1/M5, claimant was informed that letters dated 6-10-04, 20-12-04 and 8-8-05 were written to him and he was called upon to join his duties. Contents of Ex. WW1/M5 also details that vide letter dated 15-10-05 he was warned that in case he would not join his duties within a period of 15 days then an action would be initiated. He was called upon to join his duties at the earliest. Despite service of this memo through his son, the claimant had not joined his duties. He had not sent any application to the management supported by a medical certificate about his ailment, which prevented him to join his duties.

14. Notices was published in Jansatta issue dated 17-5-2006, Indian Express issue dated 17-5-2006 and Financial Express issue dated 17-5-2006, calling upon the claimant to join his duties within a period of 30 days. Notices published in the aforesaid newspapers have been proved as Ex. MW1/2, Ex MW1/3 and Ex. MW1/4 respectively. Out of notice, published in newspaper, substituted service has been proved on the claimant to the effect that his employer gave an opportunity to join his duties. Despite the opportunity the claimant opted not to send any explanation or to join his duties. Had he been ill, he might have sent application supported by medical certificate to his employer. There is a complete vacuum of evidence to the effect that the claimant was seriously ill, during the period when the aforesaid notices and memos were served upon him. When publication was published in the aforesaid newspapers, it could not evoke any response from the claimant either to join his duties or to send leave application supported by a medical certificate. Therefore, it is crystal clear that the claimant has not been able to establish that he was on leave w.e.f. 1-9-4 till 15-7-06.

15. Photo copy of medical certificates, purported to have been issued by Singhal Clinic and Day Care Centre, located at 1399 and 1466 Najafgarh, New Delhi, are placed over the record. The claimant opted not to speak even a single word about those medical certificates. He had not cared to prove those certificate as substantive evidence of the fact that he was lying ill. When these certificates were perused, a few of the medical certificates project that claimant was suffering from depressive psychosis, a few show that he was suffering from entric fever and others show that he was suffering from fever with bronchitis. Though these medical certificates are not proved by the claimant, yet they do not go to espouse his case. As per these medical certificates claimant got treatment at the aforesaid clinic, which was located at Najafgarh, New Delhi. Surprisingly the claimant could come to Najafgarh, New Delhi, which was at a distance of about 60 kms. from his residence, but he opted not to inform his employer about his ailment. Even otherwise not even a single certificate was placed over the record, showing fitness of the claimant to resume his duties. Can it be presumed that after one ailment the other ailment made the claimant down in a successive order. It is apparent that these certificates were obtained by the claimant to fabricate a story of his ailment. A better sense prevailed upon him and he opted not to prove these certificates. Hence these certificates are also not going to show a case of ailment, to espouse facts in his favour.

16. Since claimant has not been able to show that he was ill and got leave sanctioned in his favour from the management for the period from 1-9-2004 till 25-7-2006, it emerges over the record that he failed to discharge onus resting on him. Consequently, it is concluded that the claimant was not on leave from 1-9-2004 till 25-7-2006, on

medical grounds. Issue is, therefore, answered in favour of the management and against the claimant.

Issue No. 2 & 3

17. Shri I.J. Gupta presents in his affidavit Ex. MW1/A that the claimant was absent from his duties for the period 1-9-2004 to 25-7-2004 and various letters and memos were sent to him. Despite service of letters and memos, claimant opted not to join his duties. A notice was published on 17-5-2006 in Jansatta, Indian Express and Financial Express. Despite publication of the said notice, the claimant opted not to join his duties. Under these circumstances the management terminated his services w.e.f. 25-7-06, on the ground of his unauthorized absence from 1-9-2004 till the date of the order. Though order dated 25-7-06 speaks of his dismissed from service, yet it has been stipulated therein that he was given opportunity to join his service vide letters dated 6-10-04, 20-12-04, 8-8-05, 15-10-05 and 31-1-06 and was no more interested to continue in service. Thus pith and substance of the order is that the claimant is absent from his service from last more than 22 months, in an unauthorized manner and is no more interested to continue in service.

18. A contract of service comes to an end where the workman abandons his job. But "abandonment of service" has not been defined by the Act. Etymologically, the word "abandonment" has been explained to mean "to leave completely and finally", for sake utterly, to relinquish, to renounce, to give up all concern in something, relinquishment of an interest or claim. Abandonment when used in relation to an office means "voluntary relinquishment". Abandonment must be total and under the circumstances which clearly indicate an absolute relinquishment. Abandonment or relinquishment of service is always a question of intention, and normally, such an intention cannot be attributed to an employee, without adequate evidence in that behalf. However, his intention may be inferred from his acts and conduct. Temporary absence is not ordinarily sufficient to constitute abandonment of service. However, length of absence and other surrounding circumstances may give an inference to the effect that an employee has abandoned his service.

19. As projected above, the claimant stopped attending to his duties w.e.f. 1st of September, 2004. Various letters/memos were sent to him. Despite receipt of those memos/letters, he opted not to report for his duties. No explanation was tendered by the claimant about his absence at any point of time. He did not come out of slumbers, when a notice was sent at his residential address through a messenger. The said notice was served upon his son, who resides with him. It constitutes proper service on the claimant. Even thereafter he had not reported for his duties. A notice was published in Jansatha, Indian Express and Financial Express on 17-5-06, calling upon him to report for his duties. Thus unauthorized absence of the claimant for a fairly long period not only gave a motive to the management but foundation for passing order dated 25-7-2006. Contents of letter dated 25-7-06 nowhere projects it to be of punitive in nature. Though it speaks that the

service of the claimant were dismissed, yet it lays emphasis on the facts that the claimant was absent from his duties for last more than 22 months, in an unauthorised manner and was not more interested to continue in service. Therefore, operative portion of the order relating to dismissal of the claimant from service is a mere misnomer. In fact the management projected that he had abandoned his service and was not at all interested to join his duties. Absence from duty for fairly long period in an authorised manner brought it over the record that the claimant was not interested to perform his obligations, carved out of the contract of service. Contract of service requires an employee to perform his duties. Absence from the work place for more than 22 months makes it clear that the claimant was not willing to perform his duties and he finally decided to abandon his job completely. Therefore, the management passed an order in that regard, for which the claimant gave a right to the management to terminate his services on the ground that he was not ready to perform his contractual obligations. Hence the order impugned is found to be legal and justified. Issues are therefore answered in favour of the management and against the claimant.

Relief

20. In view of the findings on the above issues, it is evident that the claimant is not entitled to any relief. His claim statement is liable to be discarded, being devoid of merits. His claim statement is discarded and an award is accordingly, passed. It be sent to the appropriate Government for publication.

Dr. R.K. YADAV, Presiding Officer

Dated: 29-7-2010

नई दिल्ली, 28 फरवरी, 2011

का.आ. 839.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेलीकॉम डिस्ट्रिक्ट मैनेजर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं.-1 चाण्डीगढ़ के पंचायत (संदर्भ संख्या 107/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-2-2011 को प्राप्त हुआ था।

[सं. एल-40012/87/98-आई आर (झीय)]
जोहन तोपनो, अधर सचिव

New Delhi, the 28th February, 2011

S.O. 839.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 107/99) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom District Manager and their workman, which was received by the Central Government on 28-2-2011.

[No. L-40012/87/98-IR (DU)]
JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-1,
CHANDIGARH
Case No. 107/99**

Shri Partap Singh son of Shri Puran Chand Village Bamana
PO Banthal, Teh. Karsog, District Mandi, (HP). 175001

....Applicant

Versus

The Telecom District Manager, Telecom Mandi (HP)

.....Respondent

APPEARANCES

For the workman : None

For the management : Shri Baldev Singh and Sanjiv Sharma

AWARD

Passed on 17-2-11

Central Govt. vide letter No.L-40012/87/98-IR (DU) dated 16th of April, 1999 has referred the following dispute to this Tribunal for adjudication.

“Whether the action of the Telecom District Manager, Mandi (HP) in terminating the services of Shri Partap Singh son of Shri Puran Chand is legal and justified? If not, to what relief the workman is entitled?”

This reference/industrial dispute is of the evidence case the workman has challenged his termination on two folds. Firstly, that he has completed 240 days of work and his services were terminated without one month notice or one month wages in lieu of notice and without payment of retrenchment compensation and secondly, fresh persons were recruited/engaged after the termination of his service without affording him the opportunity to work.

In nut shell , it is the case of the workman that he has worked with the telecom department w.e.f. 14-10-1995 to 31-8-1996. This period of work has been admitted by the management in the written statement stating that workman was engaged as casual labour intermittently and he has not completed 240 days of work in the preceding year to the date of his termination.

Both of the parties were afforded the opportunity of evidence. Workman filed his affidavit just in the light of his statement of claim and he was cross-examined on 6-12-2001, it is the settled law of service jurisprudence that workman has to prove that he has completed 240 days of work in the preceding year from the date of his termination. At least he has to discharge the primary obligation to prove it. No document relating to his rendering service with the management has been filed by the workman. Even the

workman has filed to move an application for summoning record relating to his service which is lying in the custody of the management. The workman has failed to mention in his affidavit the names and address of the persons engaged after his termination . Accordingly, I have termed this case as of no-evidence whereas proper opportunity of being heard was given to both of the parties.

Thus, I am of the view that workman has failed to prove through any cogent evidence that he has worked for more than 240 days in the preceding year from the date of his termination, hence not entitled to any relief. The reference is answered accordingly Central Government be informed File be consigned.

Chandigarh

G K. SHARMA, Presiding Officer

नई दिल्ली, 28 फरवरी, 2011

का.आ. 840.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.एस.एन. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या सौंजीआईटी/एनजीपी-126/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-02-2011 को प्राप्त हुआ था।

[सं. एल-40011/11/2004-आई आर (डीसू)]
जोहन तोपनी, अवर सचिव

New Delhi, the 28th February, 2011

S.O. 840.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/ NGP/126/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BSNL and their workman, which was received by the Central Government on 28-02-2011.

[No. L-40011/11/2004-IR (DU)]
JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE SHRI J. P. CHAND PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/126/2004

Date: 22-02-2011

Party No.1 : The Telecom District Manager
BSNL, Civil Lines,
Wardha (M.S.)-442001

Versus

Party No. 2 : The District Secretary,
BSNL Mazdoor Sangh, Wardha

AWARD

(Dated: 22nd February, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of

Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of the BSNL, Civil Lines and their workman, Shri A.B. Khode ("the workman" in short) for adjudication as per letter No. L-40011/11/2004-IR(DU) dated 08-11-2004, with the following schedule:—

"Whether the action of the Divisional Engineer Admn.) B.S.N.L. Wardha in awarding punishment of stoppage of one increment falling due on 1-1-2002 without cumulative effect to the workman Shri A.B. Khode, Sr. Tele. Operating Asstt. (Phones) vide order dated 01-10-2001 is justified and legal? If not, to what relief the said workman is entitled?"

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in accordance with which, Shri A.B. Khode, the workman ("the workman" in short) filed his statement of claim and the management of B.S. N.L. (Party No. 1 in short) filed their written statement.

3. The case of the workman as projected in the statement of claim is that he was initially appointed as a Lineman with Party No. 1 on 29-6-1972 and by dint of his efficiency in performing his duty, he was promoted as Telephone Operator w.e.f. 4-1-1978 and in the year 2000, he was designated as Sr. Telephone Operating Assistant and since 1994, he was working at Wardha and his service record is clean and unblemished and the dispute in the instant matter arose in respect of an alleged incidence dated 20-6-2001, for which, he was served with a show cause notice on 22-6-2001, with the allegation that though there is a toilet in the office premises, he was seen urinating in the open space at about 21.00 hrs. on 20-6-2001 and the said incidence was witnessed by the District Telecom Manager himself and in his show cause dated 25-6-2001, he completely denied the allegations, but he was issued with a charge sheet containing the above allegation and stating that the same amounted to misconduct under Rule- 3(i) (iii) of CCA (Conduct) Rules, 1964 and he replied to the said charge sheet on 14-9-2001, denying the charge and as he had denied the charge completely, there should be a disciplinary proceeding to enquire into the alleged misconduct and such misconduct should not have been treated to have been proved without such enquiry, but without affording any opportunity of hearing and by giving a bypass to the provisions of natural justice, the Party No.1 imposed the penalty of stoppage of one increment for a period of one year vide order dated 1-10-2001 and the District Telecom Manager himself was the complainant in respect of the alleged incident and he himself issued the show cause notice and the charge sheet and without giving any opportunity of hearing to him, imposed the punishment and as such, the order dated 1-10-2001 passed against him is illegal, arbitrary and is liable to be quashed and set aside and though he preferred a departmental appeal to the

Appellate Authority against such order, his appeal was dismissed on 20-1-2003 and the Appellate Authority himself was the complainant in the instant matter and as such, he had no right and authority to decide the matter the workman has prayed to quash and set aside the impugned order dated 1-10-2001 and 20-1-2003 and to grant consequential reliefs.

4. The Party No. 1 in its written statement had admitted about the working of the workman with it from 29-6-1993 and not from 29-6-1992 as claimed by the workman in the statement of claim and about his promotion, re-designation and working at Wardha and issued of the show cause on 22-6-2001, submission of reply by the workman denying the allegations, submission of the charge sheet and submission of reply by the workman to such charge sheet. However, the specific pleading of the Party No. 1 is that the workman was found urinating in open space in office compound at 21.00 hrs. on 20-6-2001, in spite of availability of toilet facility in the office compound of Telecom Exchange, Wardha and the incident was seen by TQM, Wardha and the incident took place in the presence of the Security Guard and therefore, the memo dated 22-6-2001 was issued against the workman and as the reply of the workman was found not to be satisfactory, charge sheet under Rule 16 of CCS (Conduct) Rules, 1965 was issued against him by D.E. (A), Wardha and the workman denied the charge levelled against him in his reply but as such reply was found not satisfactory and was submitted after the expiry of the ten days time limit as prescribed, the D.E. (Admn.), Wardha rightly awarded the punishment for stoppage of one increment for one year and before the issuance of punishment order, sufficient opportunity was given to the workman for hearing and to submit his reply and the order dated 1-10-2001 passed against the workman is legal, as the charges leveled against him were proved by the witnesses and in this case, the statement of the Security Guard was recorded and the incident was witnessed by the TDM himself and the workman had admitted his guilt during the conversation and the misconduct of the workman was a clear violation of Rule 3(i)(iii) of CCS (Conduct) Rules, 1965 ("the Rules" in short) disciplinary action was taken against him under rule 16 of the Rules and it is only necessary for the Disciplinary Authority to conduct departmental enquiry in case of action taken under rule 14 of the Rules and as such, no enquiry was conducted by the D.E. (A), Wardha and in view of the charges proved beyond doubt against the workman, the imposition of the punishment is justified and as such, the workman is not entitled for any relief.

The parties were allowed to lead evidence in support of their respective claims. The workman examined himself as a witness in support of his claim, Though, the Party No. 1 filed the evidence of one Shri Radhesnyam M. Parmar on affidavit, the said witness was not produced before the Tribunal for his cross-examination, so his

evidence was expunged by order ("no cross" order) dated 24-9-2009. The workman has reiterated the facts mentioned by him in his statement of claim, in his evidence on affidavit.

6. It is the admitted case of the parties that punishment of stoppage of one increment for one year without cumulative effect was imposed against the workman by the Party No. 1. As per Rule 11 of the Rules, such punishment was a minor punishment. According to Party No. 1, as minor penalty was imposed as per Rule 16 of the Rules, there was no need to conduct any departmental enquiry against the workman. However, Rule 16, sub-rule (b) of the Rules provides holding of an enquiry in the manner laid down in sub-rule (3) to (23) of Rule 14, such enquiry is only to be conducted when, the Disciplinary Authority is of the opinion that such enquiry is necessary. In this case, after submission of the explanation by the workman to the notice to show cause dated 22-6-2001, the Party No. 1 issued a charge sheet against the workman and asked him to file his reply within ten days of receipt of the charge sheet. The Party No. 1 has also admitted in its written statement in Para ten about submission of the charge sheet stating that, "the charge sheet was issued to Party No. 2 on 24-6-2001 and the reply was submitted by the Party No. 2 on 14-9-2001, after the expiry of ten days". Rule 16 of the Rules does not provide the submission of charge sheet unless the Disciplinary Authority thinks it necessary to hold the departmental enquiry as provided under Rule 16, sub-rule (b) of the Rules. In this case, the procedure as provided by sub-rules 3 and 4 of Rule 14 of the Rules were already followed and from such facts, it can be safely concluded that the Disciplinary Authority had thought it necessary to conduct an enquiry but after submission of the charge sheet against the workman and submission of his reply, no departmental enquiry was conducted against the workman, giving him chance to fend the charge leveled against him by following the principles of natural justice and on that ground only, the order of imposition of the punishment can be held to be illegal and not sustainable.

7. However, it is to be mentioned here that in this regard, according to Party No. 1, the District Telecom Manager himself found the workman urinating in an open place by the side of the TRC building, in spite of having a toilet in the premises, on 20-6-2001 at 9.00 PM (21.00 hrs). However, entry was made in the log book of the office by the Manager himself. According to the show cause notice, xerox copy of the log book filed by the Party No. 1, it is found that the D.E. (Admn.) had made the entry in the log book about the alleged incident. It is not known as to how the D.E. (Admn.) made entry in the log book, as there is nothing on record to show that he was directed or authorized by the Telephone District Manager himself to make such an entry. On perusal of the entry in the log book, it is also found that nothing has been mentioned in the same about the security guard seeing the workman passing urine in the open place or that the workman admitted his guilt during the conversation. It is also found from the xerox copy of the statement of the security guard that the same was recorded on 3-7-2001. It is not known as to who recorded such statement and why it was recorded on 3-7-2001 instead

of recording of the same, before issuance of the show cause notice. In the show cause notice also nothing has been mentioned about the security guard seeing the incident and about the workman admitting his guilt during conversation. It is found that the statement of the security guard, Shri Vinod Wandhare was recorded in absence of the workman and without any enquiry. No copy of such statement was given to the workman at the time of giving the show cause notice or submission of the charge sheet. Similarly, the extract of the entry made in the log book by the D.E. (Admn.) was not supplied to the workman. The statement of the Telephone District Manager was not recorded. Even a report in regard to the incident was also not obtained from the T.D.M. Such action of the Party No. 1 is in gross violation of the principles of natural justice. Hence, the action of the Party No. 1 in awarding the punishment of stoppage of one increment against the workman is not justified. Hence, it is ordered :—

ORDER

The action of the Divisional Engineer (Admn.), B.S.N.L., Wardha in awarding punishment of stoppage of one increment falling due on 1-1-2002 without cumulative effect to the workman, Shri A. B. Khode, Sr. Tele Operating Asstt. (Phones) vide order dated 1-10-2001 is not justified. The order of punishment dated 1-10-2001 is set aside. The workman is entitled to get the annual increment as usual. As it is reported that the workman has already retired from service, so the amount due towards the increment of one year be drawn and be paid to the workman within one month of the publication of the notification.

J. P. CHAND, Presiding Officer

नई दिल्ली, 28 फरवरी, 2011

का.आ. 841.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. ई एल एस ए एम ई एक्स-टी डब्ल्यू एस-एस एन जे (जेवी) के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय भुवनेश्वर के पंचाट (संदर्भ संख्या 47/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-2-2011 को प्राप्त हुआ था।

[सं. एल-42011/113/2007-आई आर (डीयू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 28th February, 2011

S.O. 841.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 47/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. ELSAMEX-TWS-SNJ(JV) and their workmen, which was received by the Central Government on 28-2-2011.

[No. L-42011/113/2007-IR(DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
BHUBANESWAR**

Present :

Shri J. Srivastava,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar

INDUSTRIAL DISPUTE CASE NO. 47/2007

Date of Passing Award—17th february, 2011

Between :

The Management of the Project Manager,
M/s. ELSAMEX-TWS-SNC(JV),
Near D.P. Industries, At/Po. Bidu Bazar,
Via. Bahanaga, Balasore, Orissa.

Shri Suman Pattnaik, Managing Director,
M/s. Sai Security Service,
At./PO. Bidu Bazar, Via Bahanag, Balasore.

.... 1st Party-Managements

AND

Their workman Shri Manoranjan Barik,
At./PO. Kuruda (Soro), Via. Anantpur,
Balasore.

....2nd Party-Workman

APPEARANCES:

None For the 1st Party-Managements.

None For the 2nd Party-Workman.

AWARD

The Government of India in the Ministry of Labour has referred an industrial dispute raised by the 2nd Party-workman Shri Manoranjan Barik against the Project Manager M/s. ELSAMEX-TWS-SNC (JV), Balasore, Orissa and their contractor Shri Suman Pattnaik, Managing Director, M/s. Sai Security Service, Bahanaga, Balasore vide their letter No. L-42011/113/2007-IR(DU) dated 30-11-2007 raising an issue as to whether the termination of service of Shri Manoranjan Barik recruited through M/s. Sai Security Services with effect from 30-12-2004 is legal and justified and if not, to what relief the workman is entitled to?

2. The 2nd Party-workman has filed his statement of claim alleging that the contractor M/s. ELSAMEX-TWS-SNC(JV) at Bidu Bazar, Bahanaga, Dist. Balasore had engaged him as a security guard in the year 2002. But he was retrenched from 1-1-2005 without service of any notice or payment of retrenchment compensation, PF, bonus etc. He raised the dispute before the Asstt. Labour Commissioner (Central), Bhubaneswar, but the 1st Party-Management did not accede to his claim. Therefore the present reference has come into picture.

3. After filing of the statement of claim by the 2nd Party-workman through post, notices were sent to the Management and the contractor as well as the 2nd Party-

workman, but none of them turned up before this Tribunal/Court. The 1st Party-Management No. 1 and 2 did not even file any written statement. Ultimately the case was ordered to proceed ex parte against the Management No. 1 and 2 and the 2nd Party-workman was called upon to adduce ex parte evidence. But he did not appear to adduce any evidence. Registered notice was also issued to him, but no response was received from him and no ex parte evidence was filed or adduced by the 2nd Party-workman. All this process took more than three year's time. But the 2nd Party-workman still failed to file any evidence in support of his claim, nor appeared before this Tribunal/Court on any of the dates fixed so far. As such he has failed to prove or even make out any case for grant of any relief to him. In the result the 2nd Party-workman is not entitled to any relief prayed for.

4. Award is passed accordingly.

Dictated & Corrected by me.

J. SRIVASTAVA, Presiding Officer

नई दिल्ली, 28 फरवरी, 2011

का.आ. 842.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ए एल आई एम सी ओ के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 18/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-2-2011 को प्राप्त हुआ था।

[सं. एल-42011/64/2009-आई आर (डीयू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 28th February, 2011

S.O. 842.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 18/2010) of the Central Government Industrial Tribunal-cum-Labour Court Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ALIMCO and their workmen, which was received by the Central Government on 28-2-2011.

[No. L-42011/64/2009-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE SRI RAM PARKASH, PRESIDING
OFFICER CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, KANPUR**

Industrial Dispute No. 18 of 2010

Between

The General Secretary,
Alimco Mazdoor Sangh,
106/371, Heeraganj, Kanpur

and

The General Manager,
ALIMCO, GT. Road, Kanpur.

AWARD

1. Central Government, MoL, New Delhi, vide Notification No. L-42011/64/2009-IR(DU) dated 16-02-2010, has referred the following dispute for adjudication to this tribunal :—
2. Whether the action of the management of General Manager, ALIMCO, Kanpur, in terminating the services of Sri Sompal Singh w.e.f. 21-05-09 is legal and justified? If not what relief the workman is entitled to?
3. Brief facts are that after receipt of reference notices were sent to both the parties. Thereafter both the parties filed their respective pleadings. Thereafter there was an application of the claimant to frame the preliminary issue, but today on 22-02-11 when the case was taken up for hearing, an application dated 15-02-11 was placed before me. It has been prayed by the claimant Sompal Singh that he is not interested to contest the aforesaid adjudication proceedings due to some technical reason; hence the case pending before the tribunal is not pressed.
4. This application has not been opposed by the opposite party.
5. Considering the facts and circumstances of the case, the application of the claimant has to be allowed and he is permitted not to press his case.
6. Therefore, in these circumstances, claim is decided against the claimant as withdrawn.

Dt. 22-2-2011

RAM PARKASH, Presiding Officer
नई दिल्ली, 28 फरवरी, 2011

का.आ. 843.—औद्योगिक विवाद अधिनियम, 1947 (1947 नं. 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. जोगर गम्मन ज्वाइंट वैन्चर, कुल्लू के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. II, खण्डीगढ़ के पंचाट (संदर्भ संख्या 66/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-02-2011 को प्राप्त हुआ था।

[सं. एल-42012/75/2010-आई आर (डीयू)]
जोहन तोप्नो, अवर सचिव

New Delhi, the 28th February, 2011

S.O. 843.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 66/2010) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Joggar Gammon Joint Venture,

Kullu and their workman, which was received by the Central Government on 28-02-2011.

[No. L-42012/75/2010-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present : Sri A.K. Rastogi, Presiding Officer

Case No. I.D. 66/2K10

Registered on 30-08-2010

Sh. Yugal Kishore S/o Shri Madan Singh, R/o Village Sapanganj, P.O. Larji, Tehsil Banjar, Kullu (HP)

—Applicant

Versus

1. The General Manager, National Hydel Power Corporation, Parbat Hydel Project Stage-III, Village Behali, P.O. Larjee, Kullu (HP)
2. The General Manager, M/s. Joggar Gammon Joint Venture, Parbat HPEP-III, Behali, Kullu (HP)
3. The Director, M/s. Joggar Gammon Joint Venture, Mumbai.

—Respondents

For the workman : None for workman

For the Management : Sh. D.R. Sharma, Adv.

AWARD

Passed On 09-2-2011

Central Government vide Notification No. L-42012/75/2010-IR(DU) Dated 13-08-2010 by exercising its powers under Section 10, Sub-Section (1) Clause (d) and Sub-Section 2(A) of the Industrial Disputes Act, 1947 (hereinafter referred to as Act) has referred the following Industrial dispute for adjudication to this Tribunal :—

“Whether the action of the management of M/s. Joggar Gammon Joint Venture Kullu, in terminating the service of their workman Sh. Yugal Kishore w.e.f. 21-11-2007 is legal and justified? If not, what relief the workman is entitled to?”

Workman did not turn up despite notices sent to him on 18-09-2010, 05-10-2010 and by Registered post on 24-12-2010. As the notice sent by Registered post to him was not received back undelivered, hence the service was presumed on the workman. Respondent No. 1 and 2 of the reference have put in their appearances but the respondent No. 2 did not turn up despite notice sent by registered to him on 24-12-2010 rather the same returned back due to incomplete address.

As the workman has failed in putting his case before the Tribunal, the reference is answered against him. Let two copies of award after due compliance be sent to the Central Government for further necessary action.

ASHOK KUMAR, RASTOGI, Presiding Officer

नई दिल्ली, 1 मार्च, 2011

का.आ. 844.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंचाब नेशनल बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1368/2004, 24/01 ओल्ड) को प्रकाशित करती है जो केन्द्रीय सरकार को 25-2-2011 को प्राप्त हुआ था।

[सं. एल-12012/90/2001-आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 1st March, 2011

S.O. 844.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award [(Ref. No. CGITA of 1368/2004 (ITC No. 24 of 2001 Old)) of the Central Government Industrial Tribunal/Labour Court, Ahemedabad now as shown in the Annexure in the industrial Dispute between the employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 25-2-2011.

[No. L-12012/90/2001-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE HON'BLE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Binay Kumar Sinha, Presiding Officer
CGIT cum Labour Court, Ahmedabad, Dated 24-01-2011

Reference: ITC No. 24 of 2001 Old

Reference: CGITA of 1368 of 2004

Punjab National Bank,
Regional Office,
Popular House Basement, Ashram Road,
Ahmedabad- 380009

...First Party
(Employer)

Their Workman

Narshin Kesharsinh Rathod,
B-P Compound,
Opp. Trishul Complex,
Pratapbhai Marwadi's Chawl Varcha Road,
Surat-395006 (Gujrat)

...Second Party

APPEARANCE

For the first party (Employer) : Shri Jayantilal I. Shah,
Advocate

For the Workman

Binay Kumar I. Sinha,
Advocate

AWARD

(1) As per the Government of India, Ministry of Labour & Employment/Shram Mantryakar by its order No. L-12012/90/2001-IR(B-II) dated 16-3-2008 in exercise of the power conferred by clause D of sub-section 1 and section 1 (A) of Section 10 of the Industrial Tribunal Act, 1947 have referred the following dispute to this tribunal for adjudication under the schedule to Annexure :

"Whether the punishment of discharge from the service imposed upon the workman No. 12012/90/2001-IR w.e.f. 29-01-1999 by the Management of Punjab National Bank through its officers vide Black Book of the Management dated 29-01-1999 and vide Appellate Authority order dated 23-04-2001 is legal, proper and justifiable. What rights of workman is entitled to and from whom and what directions are necessary in the matter."

(2) In support of subject matter referred in the reference the second party (workman) filed a statement of claim at Ex. 3, pleading inter-alia that he was initially appointed as a peon in subordinate cadre in July 1973 by the management of Punjab National Bank at its Textile Market Branch, Surat. He was promoted to cashier cadre in March 1987 and was posted as main branch of somewhere he was working as cashier-cum-godown keeper till the date of termination of his services by the Bank. Service conditions of the employee are governed by bipartite settlements, modified from time to time. It is contended that the Bank has served charge sheet and criminal charges against him and a departmental inquiry was initiated and terminated against the workman in the year 1998. Subsequently Management of Bank has lodged a Police case on the same alleged charges, which is pending before the Criminal Court at Surat. Further case is that he was suspended suspension from 15-03-1994 till the date of termination of service i.e. 29-02-1999. During the suspension period he was not paid subsistence allowances and bank has also not paid difference of arrears of last revision of pay scale to him. Further, the contention is that the departmental enquiry was never delayed at the instance of the workman. The inquiry was initiated and started after lapse of 4 years enquiry, not held by the Bank according to the principle of natural justice. When the Criminal Proceedings are pending, before the Criminal Court, the quasi judicial proceedings may not be proceeded on the same subject matter. Challenged the proposed punishment of discharge from the services with immediate effect, vide order dated 14-12-1998 and thereafter imposed punishment order of termination dated 29-01-1999, which have been passed against the provisions contained in bipartite settlement. The workman preferred appeal before the Appellate but no any heed was paid and the appeal was disposed off without proper consideration. The workman

has challenged the action of the management of Bank in terminating his services with effect from 29-01-1999 under the guard of discharge that the management has actually dismissed him from the services illegally, abruptly, arbitrarily and with male fide intention to throw the workman out of employment. And so, the action is gross violation of principle of natural justice and fair play. The propriety of the termination order has also been challenged in this way that the bank have violated the provision of section 25 F(b) of the ID Act since he was not offered retrenchment compensation. Thus challenging that the action of the management of the Bank in terminating the service of the workman from 29-01-1990 is illegal, unjust, void ab initio and not binding in the eyes of law. Claiming on the aforesaid ground for the relief of reinstatement of the workman in the services of the bank in his original post and position with retrospective effect with further claim of full back wages, continuity of service and all consequential benefits as other employees of the bank are getting with other relief together with costs which the workman is found entitled.

(3) This Reference is disputed by the first party management of Bank by filing a written statement at Ex. 6 contending therein that this Reference is not maintainable and this Court/Tribunal has no jurisdiction and that the Reference is not tenable in the eyes of law due to non-joinder of necessary party of Branch Manager of Punjab National Bank, Sural, where the workman was working and taking also such ornamental objection that the Reference is time barred and Ministry of Labour has no authority to make the Reference. Apart from these ornamental objections above, party denying or totally denying to the paragraph of the statements of the claim of the workman. The first party has put up the case as follows. The second party workman was working as Cashier in cash receipt counter, B/o, Surat main branch from 17-03-1987 to 22-02-1994, during the said tenure of work the workman committed serious misconducts and so he was served with suspension order dated 15-3-1994 followed by the detail chargesheet dated 6-09-1994 by the Chief Manager (Disciplinary Authority). The chargesheet was to the effect, "while discharging your duty as Cashier" in receipt counter B/o, Surat, "from 17-03-1987 to 22-02-2004 you have collected cash along with share application, payment letters related to public issue of different companies from the customers, neither the cash was deposited in the bank nor any entry for such cash receipt were made in cashier log book/cash book by you incorporating also the bills of such transaction certified out by (workman) unauthorisedly, to the tune of total amount of Rs. 151340 received by the workman of as many as 10 customers as per serial no. 1 to 10 detail mentioned in the chargesheet, also mentioning that these acts on his part to show misconduct in terms of clause 19.5(i) and also committed act prejudicial to the interest of the bank of the B.P. Settlement dated 19-10-1966 as amended up to date, and thus asking delinquent

workman to reply in writing to the under signed within 7 days from the date of receipt of chargesheet. Further case of the first party is that the said action of the bank was challenged by the second party workman by filing S.P.C.A. No. 122731/1994 in the Hon'ble High Court of Gujarat on the ground that the departmental enquiry and criminal prosecution can not be gone into simultaneously as his defense would be prejudiced. However, Hon'ble High Court disposed of the S.P. C.A. and not granted any stay on departmental proceeding however directed the Management of Bank to pay subsistence allowance during course of departmental enquiry. Further case is that during departmental enquiry, the workman was being paid subsistence allowance and other dues. Further case is that departmental enquiry was also made observing the principle of natural justice and workman was given equal opportunity to defend himself through his representing Mr. K.P. Barot, witness of the bank were examined before the enquiry officer in presence of second party and his representative and on conclusion of inquiry, inquiry officer submitted his finding to the disciplinary authority and the 2nd show cause regarding proposed punishment of discharge was served upon the second party and after considering the show cause of the second party workman, punishment of discharge from the services of bank was awarded to the workman without disqualification from future employment in terms of clause 19.6(b) of the bipartite settlement. Further case is that though the charges levelled against second party which was proved in the departmental inquiry were serious in nature and very grave, even then the disciplinary authority of the management of bank instead of dismissal from the service, the workman was discharge from the services of bank without disqualification from further employment with the benefits of superannuation as per clause 19.6(b). Thus the action of the bank in discharging the services of the workman is legal and justified on clear proof of the charges levelled against him. So, the workman is not entitled to get any relief in this case. Further case is that if this Tribunal comes to the conclusion that departmental inquiry conducted by the bank is against provision of natural justice and is vitiated, then the first party bank be permitted to prove misconduct of the workman to the charges dated 6-09-1994 by adducing evidence along with documentary evidence on the ground prayer is made to uphold the discharge order of the workman (second party dated 29-01-1999) and the Reference be answered in favour of the first party and against second party workman and the reference case be dismissed.

(4) In view of the above pleadings following issue arises for determination.

Issues

- Whether the reference is maintainable?
- Whether it is time barred?

- (iii) Whether this tribunal has jurisdiction to adjudicate?
- (iv) Whether the principle of natural justice, fair play was adopted by the management in conducting domestic inquiry against the delinquent?
- (v) Whether the punishment awarded to the delinquent is legal, proper and justified?
- (vi) Whether the delinquent workman is entitled to any relief?

FINDINGS

(5) Issue No. i, ii, and iii. Though the first party has taken the objection regarding non-maintainability of the reference due to non-joining of the branch manager of Punjab National Bank, Surat, where the workman was working. But during the argument the Learned Counsel of the first party did not press this point regarding non-maintainability of reference, likewise the first party has also taken objection in its pleadings as to this tribunal having no jurisdiction, also challenging ornamenteally that Ministry of Labour has no authority to make this reference. But in course of final argument, the Learned Lawyer for the first party, did not press this point in order to attack this reference. From the record, it is not disputed that the delinquent workman was working in the clerical cadre in the main branch of Surat of Punjab National Bank. Even though the branch manager of Punjab National Bank of Surat has not been impleaded as first party, this reference can be maintainable since the Punjab National Bank is being properly represented through Regional Manager, Punjab National Bank, Ahmedabad, exercising control over its Region including Punjab National Bank, branch at Surat. Likewise. Such objection of the first party also appears to be ornamental regarding reference being time barred. There is no any time frame for forwarding the reference for adjudication by the appropriate Government because only on failure of conciliation process, it is being reported to the appropriate government regarding failure of conciliation and thereafter, followed by reference for adjudication as per schedule. Regarding dispute between the workman with the management bank comes under the purview of Central Government and so the appropriate government being Government of India, Ministry of Labour & Employment/Shram Mantralaya has every authority to make the reference for adjudication by this Tribunal. More-so, the first party also left these points to argue, meaning thereby, the first party have not pressed such point as to maintainability, non-jurisdiction of this Tribunal and point as to reference being time barred. So issue No. I is answered in affirmative that the reference is maintainable, issue No. II in negative that the reference is not time barred and issue No. III in affirmative that this Tribunal has jurisdiction to adjudicate upon this reference.

(6) ISSUE NO. IV

The delinquent workman in his pleading (statements of claim) Ex. 5 vide para 5, averred that the bank served chargesheet dated 6-09-1994 and the departmental inquiry was ordered and initiated against him in the year 1998. In the same para in the last sentence it has been incorporated "that the departmental inquiry had never been delayed at the instances of the workman". Further, at para 6 of his pleading though it has been mentioned that the inquiry held by the bank is not in accordance with principle of natural justice and well settled position of law as when criminal proceedings are pending in the court of law, the quasi judicial proceeding may not be proceeded on the same subject matter. The first party bank in its pleading (written statement) Ex.6 vide para 16 made alternative plea that if the tribunal comes to the conclusion that departmental inquiry conducted by the bank is against the provisions of natural justice and if the departmental inquiry is vitiated than the first party bank be permitted to prove the misconduct of the delinquent workman to the chargesheet level against him dated 6-9-1994 by adducing the evidence and if the tribunal comes to the conclusion that the findings given by the inquiry officer are perversed than also the bank be permitted to prove the misconduct regarding aforesaid chargesheet before the tribunal. However as per separate application Ex.26 dated 18-12-2008, the second party workman admitted fairness, reasonableness and legality of the domestic inquiry so, no any findings was required to be given to any preliminary issue as to propriety of the fairness or otherwise of the domestic inquiry held against the delinquent workman. So, in this case, it has to be held that the domestic inquiry was held following principle of natural justice and fair play. It has also to be held that the findings given by the inquiry officer is not perverse, in other words chapter regarding raising abjection to the validity and legality or otherwise of the domestic inquiry is not permissible in view of Ex. 26. The Learned Counsel for the second party in his argument submitted that after about 4 years of issuing of the chargesheet, domestic inquiry was conducted but the second party could not have been able to show that even though the inquiry started after about 4 years of issuance of chargesheet, any prejudice has been caused to the delinquent workman or not. In view of Ex. 26, it has to be observed that no prejudice was caused to the delinquent workman because for the period of suspension as per order of the Hon'ble High Court the delinquent workman was paid subsistence allowance all through. The Learned Counsel for the first party has relied upon a case law reported in 2008 (i) SCC 115 in the case of U.P. Road Transport Corporation versus Vinodkumar, on the point that when legality and validity of inquiry not challenged by the workman, the court cannot interfere with the findings. The first party has also relied upon another case law-1998 (i) GLR 824 Gujarat High Court in the case of

Vinodchandra B. Pandit Versus Bank of India and others on the point of delay wherein it has been held after there is delay in holding departmental inquiry it will not be fatal unless and until employee show any prejudice caused to him on account of delay. In the instance case the delinquent workman could not be able to show that though inquiry started after about 4 years of issuing of charge sheet, he has been prejudiced in any way.

(7) The learned Counsel for the second party in his argument, could not convince to this Tribunal whether simultaneously launching of the criminal case against the delinquent workman, caused any prejudice to the workman. The second party workman had challenged before the Hon'ble High Court of Gujarat in S.C.A No. 122731/1994, taking such plea that the departmental inquiry and criminal case cannot proceed simultaneously as his defense would be prejudiced. But the Hon'ble High Court of Gujarat has been pleased to dispose off the aforesaid case in not granting any stay of departmental proceedings and only directing to Management of bank to pay subsistence allowances during the course of departmental inquiry. As per direction of the court the subsistence allowance during course of departmental inquiry was paid to the delinquent workman.

(8) For the reasons in the forgoing this issue is answered in affirmative.

(9) Issue No.V :-

Learned Counsel for the second party arguing the case, submitted that the delinquent workman also faced criminal trial and FIR registered vide CR-No. 165/1994 dated 02-04-1994 and lastly on conclusion of the criminal trial vide case No. 1570/1999 the workman accused in that case was acquitted. Ex. 27 is the list of document of FIR and the Judgment of the criminal court. Ex. 27/1 is the copy of FIR and Ex.27/2 is the certified copy of the judgment passed by Judicial Magistrate Surat, all these are on record. It has been further argued that though on conclusion of inquiry earlier to the criminal trial, the delinquent was punished, but since thereafter in the year as per judgment passed by the Criminal Court on 19-03-2007 i.e. during the pendency of this reference the delinquent workman deserve for the relief of his reinstatement with his other consequential benefits and the punishment awarded by the disciplinary authority and the punishment even confirmed by the appellate authority are fit to be set aside. On the other hand Learned Lawyer for the first party argued out that a standard of proof in departmental inquiry is preponderance of probabilities and the charges against the delinquent are not required to be proved beyond reasonable doubt in support of such argument reliance is placed in case of West Bokaro Colliery (TIS CO Ltd.) Vs Rampravesh Singh reported in 2009 (1) LLJ page 220/SC it has been held in above case law by Their Lordship of the Apex Court "Tribunal had interfere with the findings of the domestic

Tribunal as if it was appeal tribunal" it has been further held -"standard of proof in departmental inquiry proceedings was preponderance of probabilities and the Tribunal had set aside the dismissal by observing that the charges against the respondent (delinquent) were not prove beyond reasonable doubt, erroneously applying yardstick of Criminal Proceedings". This case is applicable to the present case so far the case presented by the first party management, the second party workman can not take advantage of acquittal of the workman in Criminal trial as per Ex. 27/2. It is obvious in Criminal trial the prosecution has onus to prove the charges level against accused beyond all reasonable shadow of doubt. As per Ex. 27/2 the accused (present delinquent) has been acquitted after giving benefit of doubt for want of cogent evidence. The Learned Lawyer for the second party could not be able to file any befitting case law to support his argument that on acquittal of the workman in Criminal trial the punishment awarded to him on conclusion of domestic inquiry by the disciplinary authority is fit to set aside. More so, it has already been observed while adjudicating upon issue No. IV that the delinquent workman as per Ex. 26 did not challenged the legality and validity of domestic inquiry. The case law relied upon, by the first party in U.P State Road Transport Corporation V/S Vinodkumar (supra) it has been held that when legality and validity of inquiry had not been challenged by the workman, the court (Tribunal) cannot interfere with findings. More so, in domestic inquiry complete principle and procedure laid down by Cr.P.C. and Indian Evidence Act do not apply whereas only right of delinquent employee is that he must be informed as to what are the charges against him and he must be given full opportunity to defend himself in the said charges for this the first party has relied upon a case law of UPS RTC V/s Sureshchandra Sharma (2010) FLR-157. The Learned Lawyer of the first party has also relied upon a case law reported in 1999 vol-7 SCC 332,2007 LAB & IC 259 and 2005 (Vol-I) LLJ 1034 all these points that no inquiry is necessary when one admits one's violation. It has been argued by the first party that the delinquent workman admitted his guilt by his own admission given under his signature and in his own hand writing on 11/03/1994 to 17/03/1994 and 21/03/1994 respectively marked as Ex ME-2, ME-3, ME-4, on the Inquiry proceeding which had been marked Ex. 50, 51, 52, respectively, in this case. It is further, argued that the workman had already admitted his guilt on 15-02-1994 which runs into pages and which pages bears the signatures and that all this admission of the delinquent workman are of his free will and volition. From going through Ex. 50, 51, 52 and Ex. 32 it appears that it clearly goes to show that the delinquent workman by his admission on 15-3-1994 gives explanation as to why he misappropriated money and in what manner he has utilized the embezzled money. Though the delinquent workman in his evidence before this court try to show that he had made such admission due to pressure from Mr. Gupta but it could not

be connected by supporting evidence. More so, no complaint was made by the workman during the period of 4 years that all his 4 admission were obtained by Mr. Gupta or anyone else under pressure either before the bank officer, or before the union or before the appellate authority. More so. No any documentary or oral evidence was led in this regard by the workman either before the inquiry officer or before this Tribunal. On the other hand delinquent had admitted in cross-examination by the presenting officer on 14-07-1998 regarding letter written by him ME-2, ME-3, ME-4, he also admitted as to the 4th letter dated 15-02-1994 that this letter is also signed by him. As per admission made by the workman it is obvious that while working as cashier he accepted cash from customers given against public issue allotment of money of difference company and amount of Rs/- . 50,000 was mis utilized by him towards his personal requirement which was his mistake. Through ME-3 (Ex.51) he on 19-03-1994 assured to deposit Rs. 25000 and Rs. 5000 by selling of the land, through ME-4 (52) he admitted in righting regarding depositing Rs. 25000 on 21/03/1994 and undertaking to deposit the remaining embezzled amount by 28-03-1994. All these letters regarding admission made by the delinquent workman are addressed to the Manager of Punjab National Bank, Station Road Surat, the workman did not raise any contention before the commencement of inquiry that he had written above letters under pressure, there is no any evidence on behalf of the workman to discard those documentary evidence and also the 3 witnesses of the first party A.C.Bhatt, D.N. Patel, S.I Panighar who also corroborated to the admissions made by the delinquent in their presence through writing letters as per Ex. 32, 50, 51, 52, more so the workman in his cross-examination as per Ex. 13 also admitted that he has deposited Rs. 25000/- before the start of departmental inquiry against him and had agreed in writing to deposit the remaining amount in installment.

(10) Learned Lawyer for the second party has also tried to challenge the quantum of punishment awarded against the delinquent workman on the ground that provision of bipartite settlement was not followed and Ex. 37, the discharge order of the workman is not speaking order because the punishment of discharge was awarded as per clause CL.19.6 (b) of the aforesaid bipartite settlement (Ex.36) but clause 19.6(b) is meant for awarding punishment like warning, censured and so the disciplinary authority and even the appellate authority was not fair in awarding punishment and confirming the punishment respectively as to punishment of discharge under clause 19.6(b) and so the order of discharge of workman from the service of the bank is fit to be set aside. In this regard reliance has been placed upon case law reported in 2008(3) GLR-2138 wherein Their Lordship held that "the quantum of punishment has to be considered even if inquiry held fair". On the other hand refuting to such argument advanced on behalf of the second party, the Learned Lawyer for the first party

submitted that the punishment as to order of discharge is based on the materials on the record on conclusion of inquiry and since the delinquent workman was chargesheeted for serious and grave misconduct for embezzlement of the money to the tune of Rs.1,51,340/- out of the said embezzle amount only Rs.25,000 had been deposited by the workman before the inquiry but the remaining embezzle amount is not deposited in spite of undertaking and that clearly go to prove that the delinquent workman committed gross misconduct in terms of clause 19.5(1) (doing an act prejudicial to the bank) and so on proof of such grave charges it was not the workman's minor misconduct to be only punished with warning or censuring, rather on proof of such misconduct, was to be awarding of punishment of either dismissal or discharge. Ex. 36 the copy of bipartite settlement clause 19.6 deals with the quantum of punishment. Clause 19.6 (a) provides dismissing employee without notice and 19.6 (b) regarding warning or censure ought to have adverse remark entered against him 19.6 (e) provides for imposing fine and 11.6 (d) provides as to punishment of stopping increment and 19.6 (e) provides for condoning misconduct of the guilty employee and be merely discharged. Apparently the disciplinary authority after serving second show-cause-notice to the delinquent workman, has taken lenient view in awarding punishment in not dismissing the delinquent, rather awarding punishment of discharge from the services with superannuation benefits as would be due otherwise without disqualification from future employment in terms of bipartite settlement. It appears that there is only slip of typing mistake about mentioning clause 19.6 (b) in the punishment order Ex. 37 wherein not incorporating clause 19.6 (e) instead of 19.6 (b).

(11) After going through the entire domestic inquiry file including the order of discharge passed after giving second show-cause-notice and giving personal hearing to the delinquent workman with his representative Mr. Barot, even before the appellate authority, the order of discharge as per Ex. 37 was confirmed by the appellate authority. Only due to incorporating clause 19.6 (b) instead of clause 19.6 (e), the delinquent workman does not appear to have entitlement for interference in the punishment of discharge. The case law relied upon by the second party as reported in 1986 (3) SCC 454,2001 (1) SCC 182, 1998 (4) SCC 154,2002 (7) SCC 142, 1984 GLH 791, 2004 (2) GLR 921, AIR 1963 SC 1914, AIR 1985 SC 1121, 2008 (3) GLR 2138, are not applicable in the instant case to support delinquent workman. But on the other hand, the case law relied upon by the first party go to support the punishment awarded to the workman by the first party. There is no any ground for making interference, in the punishment awarded to the delinquent.

(12) Upon consideration of the entire material on the record and also considering respective case laws cited by the parties, this tribunal is of considered opinion that

the first party has proved the serious misconduct of the delinquent workman in the domestic inquiry and after giving all opportunity to the delinquent workman and even issuing second show cause notice and granting opportunity of personal hearing on second show cause notice, awarded punishment of discharge and on appeal by the workman appellate authority again giving personal hearing to the delinquent with his representative and thereafter confirming the punishment of discharge vide order dated 23-04-2001 awarded against the delinquent workman without disqualification of future employment with superannuation benefit. The punishment was awarded as per gravity of charges. There is no substance in such submission made on behalf of second party that dismissal order was passed in the garb of order of discharge. So the punishment awarded to the delinquent is legal, proper, and just. This issue is decided against second party workman and in favour of the first party (Management).

ISSUE No. VI

In view of the findings given in the fore goings paragraphs, the workman (second party) is not entitled to any relief.

ORDER

This reference is rejected but without cost.

Dictated

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 1 मार्च, 2011

का.आ. 845.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय धनबाद के पंचाट (संदर्भ संख्या 50/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 24-2-2011 को प्राप्त हुआ था।

[सं. एल-12012/457/2001-आई आर (बी-1)]
रमेश सिंह, डेस्क अधिकारी

New Delhi, the 1st March, 2011

S.O. 845.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 50/2002) of the Central Government Industrial Tribunal-Cum-Labour Court-1, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 24-2-2011.

[No. L-12012/457/2001-IR (B-1)]
RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference U/s. 10(1)(d)(2A) of I.D. Act.

Reference No. 50 of 2002.

Parties : Employers is relation to the management of State Bank of India, Ranchi.

Vs.

Their Workmen

Present : Shri H. M. SINGH, Presiding Officer.

APPEARANCE:

For the Employer : Shri R. N. Ganguly,
Advocate.

For the Workman : Shri D. Mukherjee,
Advocate.

State : Jharkhand Industry : Bank.

Dated, the 1st Feb., 2011

AWARD

By Order No. L-12012/457/2001-IR(B-II) dated 30-4-01 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of I. D. Act, 1947, referred the following dispute for adjudication to this Tribunal :—

“Whether the action of the management of State Bank of India, Dalmianagar of Dohri in terminating the services of Sri Kamleshwar Ram is justified ? If not, what relief the workmen is entitled ?”

2. The case of the concerned workman is that he was originally appointed as messenger against permanent vacancy on 26-4-72 at Nagar Untari Branch and since then he had been working there. Thereafter he was transferred to Dalmianagar branch and there also he was working in permanent nature of job continuously. Then the Branch Manager of the Bank directed him to perform the domestic work which the concerned workman refused to do and so the manager was against him. The management dismissed him from service w.e.f. 4-5-1975. The management however neither issued chargesheet nor conducted any enquiry and he was afforded any opportunity nor the principle of natural justice was followed. He represented before the management against the illegal and arbitrary dismissal order but without any effect. Seeing no other alternative, an industrial dispute was raised before the A.L.C. (C) but the same ended in failure and the matter was referred for adjudication to this Hon’ble Tribunal. It has been stated that the action of the management in terminating the service of the concerned workman is illegal, arbitrary and unjustified.

It has been prayed that this Hon'ble Tribunal be pleased to pass an award in favour of the workman by directing the management to reinstate the concerned workman with full back wages and other consequential benefits.

3. The case of the management is that the concerned workman has never worked in Daltanganj Branch nor he was terminated from the Daltongang Branch, which is in the administrative control of the zonal office Ranchi. Therefore, the term of reference is wrong and is liable be amended. The concerned workman was a temporary employee in Dehri Branch which comes under the jurisdiction of the Patna zonal office. The concerned workman was terminated from service for his indisciplined activities and violation of code of conduct. The concerned workman was appointed on 11-2-1975 and he was terminated from service w.e.f. 4-9-1975 after giving 14 days notice. The said termination letter was sent to him by Regd. Post. He has not put 240 days attendance from the date of his appointment till he was retrenched from service. It has been stated that in a case reported in 2000(J) LLJ-561 (SC) in which the Hon'ble Supreme Court held that the dispute which is state cannot be subject matter of reference U/s. 10 of the Act. As Shri Ram's temporary service was terminated in the year 1975, his claim relating thereto after about 25 years is not fit for consideration U/s. 12 of the I.D. Act.

In such circumstances, it has been prayed that this Hon'ble Tribunal be pleased to pass an award holding that the action of the management in terminating the service of the concerned workman is justified and the concerned workman is not entitled to any relief.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. The concerned workman has produced himself as WW-1 (Kamleshwar Ram), who has proved Exts. W-1 to W-5.

The management has produced MW-1, Chandradeo Singh, who has proved documents as Ext. M-1 series.

6. Main argument advanced on behalf of the concerned workman is that he has been terminated from service without following the rules and procedure and without domestic enquiry, so his termination is illegal.

It has also been argued that the management without conducting enquiry and without following principle of natural justice has terminated the concerned workman from service, so, the order be set aside.

7. In this respect the management's representative argued that the concerned workman has not completed 240 days in a calendar year. His service was terminated as his conduct was not found to be satisfactory. Even the dispute has been raised after 25 years of his termination

it has also been argued that the concerned workman was habitual absentee. He was engaged only for temporary period and he has worked in March, 1975 for 30 days and April, 1975 for 6 days, in May, 1975 for 7 days, in June, 1975 for 4 days, in July 1975 for 2 days and in August, 1975 for 1 day only. His service was terminated w.e.f. 4-8-1975 after giving 14 days notice. When the concerned workman has not completed 240 days attendance in any calendar year and moreover, he was temporarily appointed, so he cannot be regularised in that way.

In this respect the evidence of WW-1, Kamleshwar Ram, in cross-examination is very much material wherein he has stated that the dispute was raised after 25 years. I have not filed any paper showing that I was appointed as permanent messenger. No document has been filed on behalf of the concerned workman to prove that he was appointed as permanent messenger. So, the question of holding domestic enquiry does not appear because he was appointed as purely temporary basis as per Ext. M-1 and the management without assigning any reason terminated his service. Ext. M-1 series shows that rules of conduct apply on him and he has taken money from other person on credit not paying money and there is also complaint against that he was not doing the job.

8. The concerned workman's representative referred C.A. No. 50/1961 decided on 29-1-1962 between Management of U. B. Dutt & Co. (P) Ltd. and workman of U. B. Dutt & Co. (P) Ltd. in which Hon'ble Supreme Court laid down that standing order of the company if confers unfettered right to hire and fire-jurisdiction of the industrial court to enquire into the causes of termination of service-Exercise of powers colourable-Court if can intervene. The concerned workman also referred 1965(II)LLJ 135 in which Hon'ble Supreme Court laid down-Industrial Tribunal-jurisdiction to enter into evidence-Finding of victimisation or unfair practice by Tribunal-Examination of correctness of propriety of such finding by Supreme Court under Act. 136 of the constitution. The concerned workman also referred 2007 LLR 1233 in which Hon'ble Supreme Court laid down-Industrial Dispute Act, 1947-Section 10-If the employer says that the workman has made a stale claim then it must challenged the reference by way of writ petition on the ground of delay and deny existence of industrial dispute-The Industrial Tribunal cannot strike down the inference on this ground.

The concerned workman also referred 2007(113)FLR 828 in which the Hon'ble Supreme Court held-The existence of industrial dispute is a jurisdictional factor. Absence of jurisdictional fact results in invalidation of the reference. The Tribunal or the Labour Court under Section 10 gets jurisdiction to decide an industrial dispute only upon a reference by the appropriate Government. The Tribunal or Labour Court cannot invalidate the reference on the ground of delay. If the employer makes a grievance

that the workman has made a stale claim then an employer can challenge the reference by way of a writ petition and contend that since the claim is belated there was no industrial dispute. The Tribunal or Labour Court cannot strike down the reference on this ground. The concerned workman also referred 2007 (115) FLR 675 in which the Hon'ble Supreme Court laid down that Industrial Dispute Act, 1947-Section 10(1) read with Section 12-Reference-If delayed by several years-Reference made about 16 years later-Labour Court not entertained the dispute on ground of delay in making reference-judgement of this court in Ajaib Singh lays down the correct law-Order of court below is set aside-Labour Court will proceed with reference.

9. Considering the above facts and circumstances it shows that the concerned workman was appointed for a temporary period and with a condition that his services will be terminated without any reason at any time and he has not completed 240 days attendance in a year and his conduct was not found to be satisfactory and, as such, his service was terminated. There is no ground to interfere with the order passed by the management against the concerned workman.

10. Accordingly, I render the following award.

The action of the management State Bank of India, Dalmianagar of Dehri in terminating the services of Sri Kamleshwar Ram is justified and the concerned workman is not entitled to any relief.

H. M. SINGH, Presiding Officer

नई दिल्ली, 1 मार्च, 2011

का.आ. 846.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन ऑवरसीज बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम व्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 261/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 22-2-2011 को प्राप्त हुआ था।

[सं. एल-39025/1/2010-आई आर (बी-II)]
रमेश सिंह, डेस्क अधिकारी

New Delhi, the 1st March, 2011

S.O. 846.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. L.C. No. 261/2004) of the Central Government Industrial Tribunal /Labour Court-, Hyderabad now as shown in the Annexure in the industrial Dispute between the employers in relation to the management of Indian Overseas Bank and their workman, which was received by the Central Government on 22-2-2011.

[No. L-39025/1/2010-IR (B-II)]
RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT : Shri Ved Prakash Gaur, Presiding Officer,
Dated the 17th day of January, 2010

INDUSTRIAL DISPUTE L.C. No. 261/2004

BETWEEN:

Sri Loddi Laxminarayana,
S/o Late Thavudu,
D. No. 7-3-139, Bankersahabpetta,
Srikakulam.

...Petitioner

AND

1. The Chief Managing Director
Central Office, Indian Overseas Bank,
Annasalai, Chennai.
2. The Regional Manager ,
Indian Overseas Bank,
Regional Office, Opp. Jagadamba Centre,
Visakhapatnam.
3. The Branch Manager,
Indian Overseas Bank,
G T. Road, Srikakulam.

...Respondents

APPEARANCES:

For the Petitioner : M/s. Chapara Ramesh & Y.
Ramesh, Advocates

For the Respondent : Nil

AWARD

This petition under Sec. 2 A (2) of the I. D. Act, 1947 was filed by Sri Loddi Laxminarayana, an ex-employee of Indian Overseas Bank challenging the order of his termination dated 16-3-2004 and to reinstate him in the service with back wages.

2. It has been alleged by the Petitioner workman that he was working as sweeper-cum-messenger in Srikakulam branch of the Respondent Bank. He was drawing a monthly salary of Rs.2000 He approached the management to reconsider his case of regularization but he was terminated from service on 16-3-2004. Applicant issued demand notice to Respondent on 29-4-2004. However, management orally informed the Petitioner that the management is not in a position to reconsider the termination order. He stated that he worked from 16-1-1992. He preferred W.P.No.359/2004 in which a direction was issued to the management to consider the application of the Petitioner and to permit him for attending.

the interview. Junior to the Petitioner Sayamma was appointed in the year 1996 by the management is continued. Thus, the action of the management is unfair and malafide, as such, the termination order be quashed and Petitioner workman be directed to be reinstated in the service.

3. No counter statement has been filed by the Respondent management, as such, the case was set ex-parte. The Petitioner workman has filed xerox copy of interim order of W.P.No.3591/2004, a copy of order dated nil directing the Respondent to permit the Petitioner to attend the interview scheduled to be held on 27-7-2004, xerox copy of notice of the advocate to the management, copy of the representation of the Branch Secretary, Indian Overseas Bank Employees Union to the President of bank management for regularization of the services of the Petitioner workman and xerox copy of the letter of bank to the Post Master, Srikakulam due amount to pay through Sri Laxminarayana, staff of the bank, xerox copy of voucher dated 2-12-1999 showing the payment of wage of Rs. 927.11 ps to Sri Laxminarayana, xerox copy of letter of management to hand over cheque through Sri Laxminarayana dated 3-12-2003 and on the same date any cheque or cash to Laxminarayana. Apart from these documents, the Petitioner workman has filed his affidavit wherein he has alleged that he worked from 16-1-1992 to 16-3-2004 continuously and he has served in notices etc. to the Respondent but no action was taken by the Respondent, no counter affidavit has been filed by the other party.

4. Petitioner's advocate has filed written argument coupled with case law of Hon'ble Supreme Court of India and xerox copy of letter wherein no date, from Indian Overseas Bank forwarding National Savings Certificates dated 23-3-93, 19-3-93 and 18-3-93 and other xerox copies from 28-8-98 to 3-12-2003 to show that he was deputed for collecting and handing over money etc., from management bank to other banks or post office. However, he has not filed any memo or petition to admit these documents or has stated he is filing these documents by way of evidence. From where he has received these documents, how he has secured these documents has also not been clarified by him.

5. Learned Counsel for the workman has filed ex-parte written argument and he has argued that the service law principle is that last come first go. However, in the case of the Petitioner person appointed after the Petitioner retained in the service and Petitioner was terminated. Union officers have also made several representations but no action was taken. The Petitioner has worked for more than 10 years as such, he could have been regularized in the service. He has himself has filed case law reported in 2006(3) LLN 666 of the Hon'ble Supreme Court in the matter between Mineral Exploration Corporation Employees' Union Vs. Mineral Exploration Corporation Ltd., and

another, in which Hon'ble Supreme Court has stated that the courts and tribunals should follow the decision and guidelines given by the Hon'ble Supreme Court in the matter of Secretary, State of Karnataka and other Vs. Umadevi and others, wherein it has been pointed out by the Hon'ble Supreme Court that the courts and tribunals should ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that required to be filled up whether daily wager or temporary employees are being employed and there should be no further passing of the constitutional requirement and regularization and making permanent those employees, who are not duly appointed as per constitutional scheme. The case of Umadevi is a guideline and binding on all the courts and tribunals to the country where Hon'ble Supreme Court has directed that there could be no further bypassing of the constitutional requirement and regularization, those employees who are not duly appointed as per constitutional scheme. Though this case is being heard ex-parte but the workman has to prove that he was legally appointed at the time of his engagement. From the bear reading of the claim statement and arguments advanced by the Learned Counsel for the workman, not a single word is there in the claim statement that the Petitioner was appointed by following the rules of recruitment prevalent in the Respondent bank. How the Petitioner was engaged is a matter of consideration and importance while asking for the regularization and reinstatement of the Petitioner, but, Petitioner has not disclosed in his claim statement that he was legally and validly recruited in the bank management. Thus, in the light of the case law reported in Uma Devi and Others vs. State of Karnataka, reported in 2006(1) Decisions Today (SC)493 wherein it was held that when the persons, engaged or appointed on daily wages or casual basis, the same would come to an end when it is discontinued. The temporary employees could not claim to be made permanent on the expiry of the term even they worked for long time". It is held in para 34 of the said ruling. "Thus, it is clear that adherence to the rule of equality in public employment is a basic feature of our Constitution and since the rule of law is the core of our Constitution, a Court would certainly be disabled from passing an order upholding a violation of Article 14 or in ordering the overlooking of the need to comply with the requirements of Article 14 read with Article 16 of the Constitution. Therefore, consistent with the scheme for public employment, this Court while laying down the law, has necessarily to hold that unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. If it is a contractual appointment, the appointment comes to an end at the end of the contract; if it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued. Similarly, a temporary employee could not claim to be made permanent on the expiry of his term of

appointment. It has also to be clarified that merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. It is not open to the court to prevent regular recruitment at the instance of temporary employees whose period of employment has come to an end or of ad hoc employees who by the very nature of their appointment, do not acquire any right. High Courts acting under Article 226 of the Constitution of India, should not ordinarily issue directions for absorption, regularization, or permanent continuance unless the recruitment itself was made regularly and in terms of the constitutional scheme. Merely because, an employee had continued under cover of an order of Court, which we have described as 'litigious employment' in the earlier part of the Judgement, he would not be entitled to any right to be absorbed or made permanent in the service. In fact, in such cases, the High Court may not be justified in issuing interim directions, since, after all, if ultimately the employee approaching it is found entitled to relief, it may be possible for it to mould the relief in such a manner that ultimately no prejudice will be caused to him, whereas an interim direction to continue his employment would hold up the regular procedure for selection or impose on the State the burden of paying an employee who is really not required. The courts must be careful in ensuring that they do not interfere unduly with the economic arrangement of its affairs by the State or its instrumentalities or lend themselves the instruments to facilitate the bypassing of the constitutional and statutory mandates."

This tribunal can not bypass the direction of the Hon'ble Supreme Court and order for re-appointment or regularization of the Petitioner workman.

6. Learned Counsel for the Petitioner workman has argued that Petitioner has worked for 240 days. The mandatory requirement of Sec. 25F of the Industrial Disputes Act, 1947 is that the workman has to prove that he has worked for 240 days continuously in the year preceding the date of his disengagement. In the present case, the Petitioner workman has not stated a single word that he has worked continuously for 240 days continuously in a year preceding date of his termination, as such, in absence of the material proof the Petitioner is not entitled for the benefit of Sec. 25F of Industrial Disputes Act, 1947. The papers filed by the Petitioner workman along with the arguments is not helpful to the Petitioner for proving that he was legally and validly appointed in a vacant post as per bank appointment rules, as such, the Petitioner is not entitled for any relief even ex-parte and his claim petition for quashment of the dismissal order and regularization of services is devoid of any merit and deserves to be dismissed, hence, this award.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 17th day of January, 2011.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

| | |
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| Witnesses examined for the Petitioner | Witnesses examined for the Respondent |
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| | |
|---------------------------------|-----|
| WW 1: Sri L. Laxmi- narayana | NIL |
|---------------------------------|-----|

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 1 मार्च, 2011

का.आ. 847.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिडिकेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या एल.सी. सं.116/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 22-2-2011 को प्राप्त हुआ था।

[सं. एल-39025/1/2010-आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 1st March, 2011

S.O. 847.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. L.C. No. 116/2005) of the Central Government Industrial Tribunal/ Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workmen, which was received by the Central Government on 22-2-2011.

[No. L-39025/1/2010-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : SHRI VED PRAKASH GAUR, Presiding Officer

Dated the 18th day of January, 2010

|INDUSTRIAL DISPUTE L. C. No. 116/2005|

Between:

Sri M. Prema Manohar,
S/o M. Venkatratnam,
C/o M. Raparthi Subba Rao,
Near Narayya Rice Mills, Yedida - 533308.

...Petitioner

AND

1. The Regional Manager/
Disciplinary Authority,
Syndicate Bank, Regional Office,
D. No. 40-5-19/19 & 20, Adam Arcade,
1st floor, A. S. Rama Rao Road,
Moghul Rajpuram, Vijayawada - 520 010.

2. The General Manager(P)/
Appellate Authority, Personal Department,
Syndicate Bank, Industrial Relations Division,
Head Office, Manipal- 576119.

...Respondents

APPEARANCES:

For the Petitioner : M/s. G. Jayaprakash Babu,
Advocates.

For the Respondent : Sri Alluri Krishnam Raju,
Advocate.

AWARD

This petition under Sec. 2 A (2) of the I. D. Act, 1947 was filed by Sri M. Prema Manohar an ex. Employee of Syndicate Bank challenging the order of his termination dated 27-9-2005 and for reinstating him in the services of the bank with full back wages.

2. It has been alleged by the Petitioner that he was appointed as temporary part time sweeper in Respondent bank on 2-1-1995 at Vakalapudi branch and was confirmed in the service in the year 1997. During the year December, 2002 after acquiring graduation degree he was promoted and posted as clerk to Mandapet branch, E.G. District. The Petitioner belongs to SC community. While working as clerk at Mandapet branch, the Chief Manager, Industrial Relations Division, Head Office, Manipal of the Respondent bank served an order No. 22/SUS/0089/PD:IRD(W), dated 30-10-2003 placing the Petitioner under suspension with immediate effect pending enquiry into certain allegations that Petitioner was found to be beneficiary of certain fictitious loans at Vakalapudi branch. The Petitioner was served with the charge-sheet bearing No. CGS/ROVJA/IRS/2004/14 dated 28-8-2004 alleging therein that the Petitioner workman colluded with one Sri Dharmendra in getting six loans sanctioned in the names of fictitious persons for an aggregate sum of Rs. 3.20 lakhs out of which Rs. 1.50 lakhs was received by the Petitioner workman. The Petitioner workman has got a benami loan sanctioned to one Sri G. Subba Rao of Rs. 2,40,000 for the purpose of setting up of a dairy farm but the Petitioner was the real beneficiary of the loan. Petitioner workman submitted his reply dated 6-4-2004 stating therein that his hand writing is not appearing on such documents and loans sanctioned to Sri G. Subba Rao was not a benami loan. He further denied his involvement in arranging six fictitious loans by colluding with Sri P. Dharmendra. The

Disciplinary Authority was not satisfied with the reply and enquiry was ordered which was conducted on 12-10-2004, 13-10-2004 and 14-10-2004. Enquiry Officer submitted his report stating therein that benami loan taken by the Petitioner is not proved, whereas the allegation that he colluded with Sri P. Dharmendra in obtaining six fictitious loans in the names of six fictitious persons and appraising the amount received by way of fictitious loans was proved against him. A second show cause notice was issued to the Petitioner. Petitioner submitted his reply and stated that "that Sri P. Dharmendra said to be one of the beneficiary of the loans, who arranged the six fictitious persons, has filled in the forms and introduced those fictitious persons, he himself has drawn the entire amount," as has been stated by Sri P. Dharmendra during course of enquiry who was produced as defence witness. During enquiry Sri P. Dharmendra has informed that he gave a statement dated 20-10-2003 which was obtained under coercion and threats, he has not made this complaint out of his sound will, but investigating officer has threatened to implicated him in the police case as such, he signed the statement, the Petitioner was not a party to the fictitious transaction nor Petitioner was beneficiary of the amount received by him, this reply was not considered by the Disciplinary Authorities and he made the order of dismissal from service on the basis of alleged circumstantial evidence which was not brought before the Enquiry Officer. The Petitioner preferred an appeal but the same was also dismissed. Hence, Petitioner has approached this tribunal. He has challenged the order of dismissal to be arbitrary, biased, illegal based on no evidence and has prayed that the dismissal order be quashed and he be reinstated in the service. The Petitioner has further challenged the domestic enquiry proceedings alleging biased and violation of principles of natural justice.

3. Respondent bank has submitted counter statement wherein bank has submitted that Petitioner was initially appointed as part-time sweeper in December, 2002, he was promoted as clerk on acquiring degree of graduation and posted to Mandapet branch. It has further been submitted that while working at Vakalapudi branch Petitioner was found to be beneficiary of certain fictitious loans arranged at his behest and also reportedly admitted to get certain fictitious loans at Mandapet branch. As the above acts of the Petitioner were very serious in nature and are against the interest of the bank, Petitioner was placed under suspension pending enquiry through order dated 30-10-2003. The matter was thoroughly investigated through the bank's vigilance department and on receipt of the investigation report a charge-sheet dated 28-8-2004 was issued to the Petitioner containing the charges alleged by the Petitioner in his claim statement. Petitioner denied the charges and submitted that he has defence to make, as such departmental enquiry was ordered and Enquiry Officer was appointed. The Enquiry Officer held enquiry

proceedings from 12-10-2004 to 14-10-2004 at Syndicate Bank, Kakinada branch. Petitioner participated in the enquiry along with defence representative, but Enquiry Officer submitted his report holding the charge of grave misconduct against the Petitioner as proved. The copy of enquiry report was sent to the Petitioner for making submission, the Petitioner submitted his representation. The Petitioner has challenged that Enquiry Officer has relied on the material which was documents of the management but was proved by the defence witness, the order of dismissal is arbitrary, report is based on no evidence. Dismissal order was passed on the basis of enquiry report.

4. Petitioner preferred departmental appeal which was dismissed. The Enquiry Officer has conducted in a fair and proper opportunity, ample opportunity was given to the Petitioner. But, management has produced only those witnesses who were relevant for the purpose of the departmental enquiry. During departmental enquiry the management has to bring only such type of witnesses or evidence which may prove preponderance of probabilities to draw inference with the facts alleged to be more probable. During course of departmental enquiry, it is not the duty of the management to prove the charges beyond reasonable doubts. The probative value could be gauged from the facts and circumstances in a given case and during enquiry the standard of probability has to be considered. The Enquiry Officer has considered this aspect of the matter and has based his finding on the preponderance and probability. During course of enquiry defence witness Sri P. Dharmendra stated that he does not know the residence of the Petitioner, but to another question of the management whether he met Sri Prem Manohar on 10-1-2003 or on 20-10-2003, he replied that he met Sri Prem Manohar on 10-1-2003 and also on 20-10-2003 in front of the Petitioner's house. Not only that Sri P. Dharmendra has admitted that he colluded with the Petitioner in arranging the fictitious persons and arranging them in names of fictitious persons. That Sri P. Dharmendra, was the witness of the defence, his statement is relevant for the purpose of the proof of the misconduct committed by the Petitioner workman, in that case, the Enquiry Officer has not committed any mistake in considering the statement of Sri P. Dharmendra. There was no prejudice caused to the Petitioner. The father-in-Law of the Petitioner has also admitted that Petitioner has obtained fictitious loans in the name of Sri G. Subba Rao as such, ample evidence was there before the Enquiry Officer. The allegation of the Petitioner that Enquiry Officer submitted report on no evidence is incorrect. The action taken against the Petitioner is neither excessive nor disproportionate. Since Petitioner has caused loss detrimental to the interest of the bank, his continuance in the service was not found to be justified and he was dismissed from the service. There is no force in the claim statement and deserves to be dismissed.

5. Both the parties were directed to produce their respective evidence. Petitioner workman has filed 20 documents turning into 135 pages which is nothing but the entire departmental proceeding the evidence relied upon by the Enquiry Officer and produced before the Enquiry Officer from both the sides. Same way, the Respondent has also produced 20 documents all produced before the Enquiry Officer which run into 133 pages consists of charge sheet, investigating officers' report, report of Sri P. Dharmendra dated 20-10-2003, letter of Sri B. Raja Rao, Father-in-Law of the Petitioner complaining that the Petitioner has taken loan of Rs. 1,90,000 in the name of G. Subba Rao and the writer of this letter has offered documents standing in the name of his mother-in-law Smt. Chantamma and Smt. Subhadramma, though the writer of this letter is not aware as to who is G. Subba Rao, he undertook to pay the amount. The management has also filed xerox copy of the form etc.

6. I have heard both the counsels and has gone through the entire material placed before this tribunal. Before discussing the case under Sec. 11 A of the Industrial Disputes Act, 1947, the question of legality and validity of the domestic enquiry was considered by this tribunal and by the order dated 23-4-2010, the domestic enquiry was held to be legal and valid, however the question as to the Enquiry Officer was left upon to be considered at the merits.

7. It has been argued by the Learned Counsel for the Petitioner workman under Sec. 11 A that the finding of the Enquiry Officer is perverse and it is based on no evidence. No evidence was produced by management before the Enquiry Officer that Petitioner has arranged for any of the fictitious persons or he filled in the forms of fictitious account openers or he has parted money with Sri P. Dharmendra. Learned Counsel for the Petitioner has argued that no doubt, Sri P. Dharmendra is the person who has produced six fictitious borrowers he arranged those borrowers, he introduced those borrowers, he was having account in his mother's name in the branch from where he has arranged for fictitious loans and it was he who has colluded with the Branch Manager and has pocketed the money. It has further been argued by the Learned Counsel for the workman that Sri P. Dharmendra's letter dated 20-10-2003 is an outcome of threat and undue influence given by the investigating officer during course of investigation, as such, the complaint dated 20-10-2003 given by Sri P. Dharmendra to the bank authority has no evidentiary value and finding based on this document is prejudicial and without any basis, because, Sri P. Dharmendra has written another letter in Telugu addressed to the Branch Manager that he has taken fictitious loan of Rs. 3,10,000 and he has falsely implicated Sri Prem Manohar in his earlier letter and Sri Prem Manohar has no concern with these loans and Sri P. Dharmendra has undertaken to repay the loan. Thus, no credence can be given to the

testimony of Sri P. Dharmendra regarding his statement to the Q.No.23 put forth at the time of enquiry wherein it was asked:

"Q.No.23 : I put it to you that you in collusion with M. Prem Manohar, got the six accounts opened at Vakalapudi branch and got the PBS loans by producing fake salary certificates and undertaking letter and paid half of the amount to Mr. Prem Manohar as his share and confirmed the same in writing vide MEX.47. what do you say?

Ans: Yes, but I have not paid any amount to Mr. Prem Manohar as written in my letter."

8. Learned Counsel for the Petitioner has argued that no doubt Sri P. Dharmendra has said Yes, to the Q.No.23, asked to him during course of enquiry but at the same time he has said that he has not paid any amount to Mr. Manohar, thus, complicity of Sri P. Dharmendra can not be said to have been proved in the fraudulent transaction of the fictitious loans and the charges to this effect was also not proved.

9 As against this argument of the Learned Counsel for the Petitioner workman the Learned Counsel for the Respondent has argued that the departmental proceeding is not a criminal proceeding.. During course of enquiry in a departmental proceeding only probabilities and preponderance of the misconduct alleged to have been committed by the charge sheeted employee had to be proved. There is no need to prove the charges beyond reasonable doubts so, the standard of the proof in the course of departmental proceeding is not of that high standard which is desirable in the case of criminal proceedings. If the material placed before the Enquiry Officer goes to show that probabilities tending to draw the inference that the fact alleged must be more probability has been proved is sufficient to hold the charges proved against a charge sheeted employee. In the present case the enquiry was conducted by investigating officer who was an independent person. During course of his investigation he has appeared as MWI before the Enquiry Officer Sri K.L. Ram, the Senior Manager, Vigilance appeared before the Enquiry Officer, he has stated that he has collected MEx1 to MEx79. During course of investigation out of which MEx45, MEx 50 letter of Sri P. Dharmendra was addressed to him wherein Sri P. Dharmendra informed him that he along with Sri Manohar arranged for six fictitious loans both of them had been colluded and opened the fictitious accounts, Sri P. Manohar has helped him in opening accounts, they secured loan of Rs.3,10,000 out of which Rs. 1,50,000 has been given to Sri P. Manohar. No doubt, Sri P. Dharmendra retracted from his earlier stand and through another letter he has stated that he alone has taken the loan and pocketed

the entire amount, no amount was paid to Sri P. Manohar. However, Petitioner himself has stated that following the directives of the R.B.I., "Know Your Customer" norms, those who introduce new customers has to sign on SB Account Opening Form. He has further stated in his own statement that "he was learning the process of opening the accounts etc., because he was aspiring for promotion to the post of clerk," before the Enquiry Officer. He has further stated that he took the payment in the name of Sri G. Subba Rao, who signed on the leaves of cheque and got the cheque to collect the amount from bank. He has stated that he has filled in the SB Account form of G. Subba Rao in the interest of customer service. But he has denied filling up the forms of other five fictitious loanees. However, he has admitted that he knows Sri P. Dharmendra as customer of the bank. He has further stated that in the interest of the bank he persuaded Sri G. Subba Rao, to keep the loan account regularly. The statement of the Petitioner shows that he is known to Sri P. Dharmendra and is close to Sri P. Dharmendra and Sri P. Dharmendra in his cross examination at Q.No.23 which was put before him "that he in collusion with Sri P. Manohar got six bank accounts opened at Vakalapudi branch and got the PBS loans sanctioned by producing fake salary certificates and undertaking letter and paid half amount to Sri P. Manohar as his share and confirmed the same in writing vide MEx 47" has answered , 'Yes'. This prove that the Petitioner in collusion with Sri P. Dharmendra, who is the own witness of the Petitioner during departmental proceeding has been instrumental in opening six fictitious loan accounts and draw fictitious loan as such, it can not be said that there was no evidence before the Enquiry Officer to prove the charges against the Petitioner workman. There was sufficient material before the Enquiry Officer to come to a conclusion that there is probabilities and preponderance of complicity of the Petitioner with Sri P. Dharmendra in opening and drawing the amount which was detrimental to the interest of the bank, as such, the finding of the Enquiry Officer is not without evidence.

10. In this case this tribunal has to consider,

(I) Whether the finding of the Enquiry Officer is perverse and without evidence?

(II) The action of the management is justified and legal or not?

(III) To what relief the Petitioner is entitled?

11. Point Nos (I) & (II) : Both the questions and points are interrelated, they can be disposed off by a common discussion. As has been discussed and argued by Learned Counsel for both the parties, it is undisputed that Petitioner was appointed as part time sweeper and he was promoted as clerk in the management bank in the year December,

2002. The allegation that Petitioner with collusion of Sri P. Dharmendra has arranged for fictitious persons for opening of the six accounts and for sanctioning of loans, to which there is the letter written by Sri P. Dharmendra dated 20-10-2003 addressed to the Enquiry Officer which is marked as MEx 47, wherein Sri P. Dharmendra has admitted before the investigating officer who was not a Police Officer, but an officer of the bank that he in collusion with the bank's part time sweeper and at the time of the sanctioned loan, clerk has arranged for six fictitious persons, opened their accounts without proper documents and withdrawn loan amount from the bank and pocketed by sharing half and half. This Sri P. Dharmendra has been produced by the Petitioner workman himself as defence witness and during course of his cross examination a specific question was put forward before Sri P. Dharmendra regarding his collusion and opening of the fictitious accounts in names of fictitious persons on the basis of forged and fictitious documents receiving the sanctioned loan and parting that loan amount in between Sri P. Dharmendra and Sri P. Manohar, the Petitioner. To this definite question No.23, Sri P. Dharmendra has replied, 'Yes' though he has further stated that no amount was paid to Sri P. Manohar, but even if the amount is not paid, the complicity of Sri P. Manohar in opening the fictitious loan accounts in name of fictitious persons and helping Sri P. Dharmendra in obtaining the fictitious loan which was detrimental to the interest of the bank is sufficient to prove the charges against the Petitioner workman. The Petitioner is employee of the bank, his duty is to protect the interest of the bank but instead of protecting the interest of the bank he has encouraged his known person to draw fictitious amounts by producing fictitious certificates and persons. Thus, misconduct is very serious and detrimental to the interests of the bank. Sri K.L. Ramu has done detailed investigation in the matter, he appeared before the Enquiry Officer and given detailed factual position along with the documentary evidence in the form of MEx.1 to MEx.79 to show that the Petitioner's conduct was detrimental to the interest of bank. He was in collusion with Sri P. Dharmendra though the Petitioner say that he do not know Sri P. Dharmendra or Sri P. Dharmendra states that he does know the residence of Sri P. Manohar. However, Sri P. Dharmendra has admitted that he met Petitioner on 10-1-2003 and again on 20-10-2003 in front of the house of the Petitioner in the morning while going to the bank. This evidence is ample to preponderate that there is complicity in between the Petitioner and Sri P. Dharmendra and whatever Sri P. Dharmendra has done is at the behest of the Petitioner who was a clerk in the bank and well known about the working of the bank how to open account of a loan etc., and has helped Sri P. Dharmendra in opening fictitious accounts of six persons on basis of fictitious or bogus documents. Thus, it can

not be said that the findings arrived at by the Enquiry Officer is perverse or is based on no evidence. I am of the opinion that the finding of the Enquiry Officer is based on evidence. There is no perversity or legality in it.

12. It is proved that the Petitioner was involved in the opening of the fictitious accounts of the six fictitious persons in collusion with Sri P. Dharmendra who is a person known to the Petitioner. Even if it is presumed that Petitioner has not received any amount from Sri P. Dharmendra and entire amount has been utilized by Sri P. Dharmendra for his own interest or benefit. The Petitioner being an employee of the bank can not be absolved of his liabilities. The Petitioner has not acted as a responsible employee of the bank whose duty is to protect the interests of the bank and thus, the Petitioner is also equally liable for the withdrawal of the fictitious loans and management has not committed any illegality or unjustifiability in dismissing the Petitioner from the service because, such an employee is not desirable in a financial institution like bank and the management has not committed any illegality in dismissing the services of the Petitioner. The action of the management is fully legal and justified and point Nos. (I) and (II) are decided accordingly.

13. Point No. (III) : It has been held that Petitioner workman's punishment is neither excessive nor disproportionate as such, he is not entitled for any relief, no leniency could be shown to the Petitioner, he does not deserve any sympathetic attitude. Point No.(III) is decided accordingly.

14. From the above discussion, this tribunal is of the opinion that this petition is devoid of merits and deserves to be dismissed and it is dismissed. Hence, this award.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 18th day of January, 2011.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for
the Petitioner

NIL

Witnesses examined for
the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 1 मार्च, 2011

का.आ. 848.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केंद्रीय सरकार जेएनआईडीबी/इंडस्ट्रियल डेवलेपमेंट बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 10/2003) को प्रकाशित करती है जो केंद्रीय सरकार को 22-2-2011 को प्राप्त हुआ था।

[सं. एल-39025/1/2010-आई आर (बी-II)]
रमेश सिंह, डेस्क अधिकारी

New Delhi, the 1st March, 2011

S.O. 848.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. L.C. No.10/2003) of the Central Government Industrial Tribunal/ Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of JNIDB/Industrial Development Bank of India and their workmen, which was received by the Central Government on 22-2-2011.

[No. L-39025/1/2010-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT : Shri VED PRAKASH GAUR, Presiding Officer

Dated the 20th day of January, 2011

INDUSTRIAL DISPUTE L. C. No. 10/2003

Between:

Sri K. Chennam Raju,
S/o Rangaiah,
C/o H.N. 2-2-1137/8/1/B/1,
New Nallakunta, Hyderabad.

...Petitioner

AND

1. The Director,
The Jawaharlal Nehru Institute for
Development Banking (JNIDB),
Gachibowli, Ranga Reddy District.

2. The Chairman,
The Industrial Development Bank of India,
IDBI Tower, Cuffe Parade,
Bombay-400 005.

...Respondents

APPEARANCES:

For the Petitioner : M/s. B. G. Ravindra Reddy & B. V. Chandrasekhar, Advocates

For the Respondent : M/s. C. Niranjan Rao & M. Subramanya Sastry Advocates

AWARD

This petition under Sec. 2 A(2) of the I.D. Act, 1947 has been filed by Sri K. Chennam Raju challenging the order of termination of service dated 15-3-1995 by the Respondent No. 1.

2. Petitioner submitted that he was appointed as a sweeper w.e.f. 20-11-1992. The nature of work discharged by the Petitioner was of permanent and continuous nature and as he protested for being treated as contract labourer he was terminated from service w.e.f. 15-3-1995 to avoid his absorption in the company. Petitioner filed W. P. No. 34943 of 1997 joining other employees similarly situated for absorption, however, the writ petition was permitted to be withdrawn on 11-6-2002 to approach appropriate forum, hence this petition. He prayed to direct Respondents to reinstate the Petitioner with back wages, continuity of service and other benefits.

3. Respondents' filed counter statement stating therein that Jawaharlal Nehru Institute for Development Banking was set up in 1991 by Industrial Development Bank of India, with a view to strengthen and upgrade the skills of banking professionals in India and abroad as well as to act as a focal point for research in respect of development banking and hence, JNIDB has no separate legal status. It is submitted that Petitioner was appointed by M/s. Ramkay Security Services and Maintenance Services Pvt. Ltd., Hyderabad and all the wages and other benefits are paid by the said contractor as such there is no employee-employer relationship between the Petitioner and the Respondent. It is further submitted that Petitioner was never appointed as watchman by the Respondent No.1 on 20-11-1992 and he was never terminated from service w.e.f. 15-3-1995. Respondent have entrusted the work of security to an outside contractor and there is no question of appointing Petitioner directly by Respondents. Moreover, this petition is raised after a lapse of 9 years. The Petition is devoid of merits hence, Petitioner be dismissed.

4. Petitioner has filed affidavit as examination in chief and got cross examined by Respondent as WW1 and he reiterated the facts mentioned in the claim statement. He filed Ex.W1 representation regarding union demands to the Assistant Labour Commissioner (C), R. R. District dated 16-5-95, Ex.W2 xerox copy of order passed in W. P. No. 34943/1997.

5. Respondent have filed chief examination affidavit of Sri B. S. K. Kiran, Deputy General Manager in the Respondent No.1 organization. MWI has filed three documents, bunch of bills submitted by M/s Ramkay Security and Maintenance Services Pvt. Ltd., copy of letter issued by 1st Respondent to M/s Ramkay Security and Maintenance Services Pvt. Ltd., dt.9-3-95, copy of letter issued by 1st Respondent to M/s Ramkay Security and Maintenance Services Pvt. Ltd., dt.13-3-95.

6. Case is fixed for cross examination of MWI, on 7-12-2010 counsel for the Petitioner informed that workman is not interested to proceed with the case, hence, evidence be closed and orders be passed. Accordingly, MWI's evidence is closed and also as per Petitioner's counsel Petitioner is not interested to proceed with the case.

7. Both the parties have lead their evidence, no doubt, at the time of cross examination of Respondent witness Petitioner's counsel has stated that his client is not interested to proceed with the case. This tribunal is duty bound to consider the merits of the case on the basis of the evidence produced by the parties.

8. I have considered and gone through the claim statement, counter statement and evidence of the workman and that of the Respondent man. The workman's contention is that he is the employee of Respondent No.1 and Respondent No.1 has appointed him and terminated him illegally without following the procedure of Industrial Disputes Act, 1947. However, the Petitioner workman has not filed any material to prove that any appointment order was issued by the Respondent No.1. In his cross examination he has stated that he filed an industrial dispute before Labour Court No.3 as I. D. No. 265/95 that claim petition was withdrawn by him and the Labour Court has dismissed the claim petition as not pressed. Against that order the Petitioner has approached Hon'ble High Court. However, he has stated that he it is not correct to suggest that Hon'ble High Court has dismissed his writ petition vide Ex.W2. Whereas Ex. W2 is the own document of the Petitioner workman, wherein Hon'ble High Court has dismissed the writ petition as withdrawn, as such, the statement of the Petitioner that he does not know the outcome of the writ petition or that his writ petition was dismissed is devoid of any merit.

9. No other document was filed by the workman to prove that he was ever appointed by the Respondent No.1 or he was dismissed by Respondent No.1 as such, this tribunal is of the opinion that there is no relationship of master and servant between the Petitioner and Respondent No. 1. This petition is devoid of any merit. Petitioner does not deserve any relief from this tribunal and petition deserves to be dismissed. Workman is not entitled for any relief. Hence, this award.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 20th day of January, 2011.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for
the Petitioner

Witnesses examined for
the Respondent

WWI : Sri K. Chennam Raju MWI : Sri B. S. K. Kiran

Documents marked for the Petitioner

EX.W1: Copy of representation regarding demands of union to Assistant Labour Commissioner (C), R. R. District dated 16-5-95.

EX.W2: Copy of order passed in WP No. 34943/1997 dated 11-6-2002.

Documents marked for the Respondent

EX.M1: Copy of bunch of bills submitted by M/s Ramkay Security and Maintenance Services Pvt., Ltd.,

EX.M2: Copy of letter issued by 1st Respondent to M/s Ramkay Security and Maintenance Services Pvt. Ltd., dt. 9-3-1995.

EX.M3: Copy of letter issued by 1st Respondent to M/s Ramkay Security and Maintenance Services Pvt. Ltd., dt. 13-3-95.

नई दिल्ली, 1 मार्च, 2011

का.आ. 849.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जेएनआईडीबी/इंडस्ट्रियल डेवलोपमेंट बैंक ऑफ इंडिया के प्रबंधतात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/प्रम म्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 6/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 22-2-2011 को प्राप्त हुआ था।

[सं. एल-39025/1/2010-आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 1st March, 2011

S.O. 849.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. L.C. No. 6/2004) of the Central Government Industrial Tribunal/ Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of JNIDB/Industrial Development Bank of India and their workmen, which was received by the Central Government on 22-2-2011.

[No. L-39025/1/2010-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

Present : Shri VED PRAKASH GAUR, Presiding Officer
Dated the 20th day of January, 2011

INDUSTRIAL DISPUTE L. C. No. 6/2004

Between:

Sri S. Vithal,
S/o Venkataiah,
C/o H.No. 2-2-1137/8/I/B/1,
New Nallakunta, Hyderabad.

...Petitioner

AND

1. The Director,
The Jawaharlal Nehru Institute for
Development Banking (JNIDB),
Gachibowli, Ranga Reddy District.
2. The Chairman,
The Industrial Development Bank of India,
IDBI Tower, Cuffe Parade,
Bombay-400 005.

... ...Respondents

APPEARANCES:

For the Petitioner : M/s. B. G. Ravindra Reddy, S.
Prabhakar Reddy, P.
Srinivasulu &
B. V. Chandrasekhar,
Advocates

For the Respondent : M/s. C. Niranjan Rao & M.
Subramanya Sastry,
Advocates

AWARD

This petition under Sec.2 A (2) of the I.D. Act, 1947 has been filed by Sri D. Vithal challenging the order of termination of service dated 15-3-1995 by the Respondent No. 1.

2. Petitioner submitted that he was appointed as a sweeper w.e.f. 3-4-1991. The nature of work discharged by the Petitioner was of permanent and continuous nature and as he protested for being treated as contract labourer he was terminated from service w.e.f. 15-3-1995 to avoid his absorption in the company. Petitioner filed W. P. No. 34943 of 1997 joining other employees similarly situated for absorption, however, the writ petition was permitted to be withdrawn on 11-6-2002 to approach appropriate forum, hence this petition. He prayed to direct Respondents to reinstate the Petitioner with back wages, continuity of service and other benefits.

3. Respondents' filed counter statement stating therein that Jawaharlal Nehru Institute for Development Banking was set up in 1991 by Industrial Development Bank of India, with a view to strengthen and upgrade the skills of banking professionals in India and abroad as well as to act as a focal point for research in respect of development banking and hence, JNIDB has no separate legal status. It is submitted that Petitioner was appointed by M/s. Ramkay Security Services and Maintenance Services Pvt. Ltd., Hyderabad and all the wages and other benefits are paid by the said contractor as such there is no employee-employer relationship between the Petitioner and the Respondent. It is further submitted that Petitioner was never appointed as watchman by the Respondent No.1 on 3-4-1991 and he was never terminated from service w.e.f. 15-3-1995. Respondent have entrusted the work of security to an outside contractor and there is no question of appointing Petitioner directly by Respondents. Moreover, this petition is raised after a lapse of 9 years. The Petition is devoid of merits hence, Petition be dismissed.

4. Petitioner has examined himself as WWI reiterating the facts mentioned in the claim statement. He filed xerox copy of order passed in W.P.No.34943/1997 marked as Ex.W1. Ex.W2 is the union demands representation to the Assistant Labour Commissioner (C), R.R. District dated 16-5-95. In the cross examination he desposed that one Mr. Krishna Murthy, used to be incharge of the R1 used to allot duties to him. It is true that Respondent has never given him any appointment order or increment order.

5. Respondent have filed chief examination affidavit of Sri B.S.K. Kiran, Deputy General Manager in the Respondent No.1 organization. He has stated in his affidavit that Petitioner has not filed any documentary evidence to show employer-employee relationship between Respondent No. 1 and the Petitioner. MW1 has filed three documents, bunch of bills submitted by M/s. Ramkay Security and Maintenance Services Pvt. Ltd., copy of letter issued by 1st Respondent to M/s. Ramkay Security and Maintenance Services Pvt., Ltd., dtd. 9-3-95, copy of letter issued by 1st Respondent to M/s. Ramkay Security and Maintenance Services Pvt., Ltd., dtd. 13-3-95.

6. Case is fixed for cross examination of MW1, on 7-12-2010 counsel for the Petitioner informed that workman is not interested to proceed with the case, hence, evidence be closed and orders be passed. Accordingly, MW1's evidence is closed and also as per Petitioner's counsel Petitioner is not interested to proceed with the case.

7. Both the parties have lead their evidence, no doubt, at the time of cross examination of Respondent witness Petitioner's counsel has stated that his client is not interested to proceed with the case. This tribunal is duty bound to consider the merits of the case on the basis of the evidence produced by the parties.

8. I have considered and gone through the claim statement, counter statement and evidence of the workman and that of the Respondent man. The workman's contention is that he is the employee of Respondent No.1 and Respondent No.1 has appointed him and terminated him illegally without following the procedure of Industrial Disputes Act, 1947. However, the Petitioner workman has not filed any material to prove that any appointment order was issued by the Respondent No. 1. In his cross examination he has stated that he filed an industrial dispute before Labour Court No.3 as I.D. No. 265/95 that claim petition was withdrawn by him and the Labour Court has dismissed the claim petition as not pressed. Against that order the Petitioner has approached Hon'ble High Court. However, he has stated that it is not correct to suggest that Hon'ble High Court has dismissed his writ petition vide Ex.W1. Whereas Ex. W1 is the own document of the Petitioner workman, wherein Hon'ble High Court has dismissed the writ petition as withdrawn, as such, the statement of the Petitioner that he does not know the outcome of the writ petition or that his writ petition was dismissed is devoid of any merit.

9. No other document was filed by the workman to prove that he was ever appointed by the Respondent No.1 or he was dismissed by Respondent No.1 as such, this tribunal is of the opinion that there is no relationship of master and servant between the Petitioner and Respondent No. 1. This petition is devoid of any merit. Petitioner does not deserve any relief from this tribunal and petition deserves to be dismissed. Workman is not entitled for any relief. Hence, this award.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 20th day of January, 2011.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for
the Petitioner

WW1: Sri S. Vithal

Witnesses examined for
the Respondent

MW1: Sri B.S.K. Kiran

Documents marked for the Petitioner

Ex.W1: Copy of order passed in WP No.34943/1997 dated 11-6-2002.

Ex.W2: Copy of representation regarding demands of union to Assistant Labour Commissioner(C), R.R. District dated 16-5-95.

Documents marked for the Respondent

Ex.M1: Copy of bunch of bills submitted by M/s. Ramkay Security and Maintenance Services Pvt. Ltd.

Ex.M2: Copy of letter issued by 1st Respondent to M/s. Ramkay Security and Maintenance Services Pvt. Ltd., dtd. 9-3-1995.

Ex.M3: Copy of letter issued by 1st Respondent to M/s. Ramkay Security and Maintenance Services Pvt. Ltd., dtd. 13-3-95.

नई दिल्ली, 1 मार्च, 2011

का.आ. 850.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विशाखापट्टनम पोर्ट ट्रस्ट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ एल.सी. संख्या 106/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 22-2-2011 को प्राप्त हुआ था।

[सं. एल-39025/1/2010-आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 1st March, 2011

S.O. 850.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. L.C. No.106/2007) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the industrial dispute between the employers in relation to the management of Visakhapatnam Port Trust and their workmen, which was received by the Central Government on 22-2-2011.

[No. L-39025/1/2010-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Shri VED PRAKASH GAUR, Presiding Officer

Dated the 17th day of January, 2010

INDUSTRIAL DISPUTE L.C.No.106/2007

Between:

Sri B.V. Suresh,
S/o Late Tata Rao,
D.No. 48-1 0-15/1,
Opp: RTC Complex,
Visakhapatnam - 16.

...Petitioner

AND

1. The Chairman,
Visakhapatnam Port Trust,
Administrative Office Building,
Port Area, Visakhapatnam - 35.

The Chief Mechanical Engineer,
Visakhapatnam Port Trust,
Administrative Office Building,
Port Area, Visakhapatnam -35.

... Respondents

APPEARANCES :

For the Petitioner : M/s. S. Rama Rao & D.
Jagannadha Murthy,
Advocates.

For the Respondent : M/s. Alluri Krishnam
Raju, Advocates.

AWARD

This petition under Sec. 2 A(2) of the I.D. Act, 1947 has been filed by Sri B. V. Suresh, an ex. employee of Visakhapatnam Port Trust challenging the order of dismissal from service dated 5-4-2002 which was confirmed through order dated 30-8-2002 and 27-2-2004 and to reinstate him in the service with back wages.

2. It has been alleged by the workman that he was appointed as Khalasi in the management department on 24-7-1998 on compassionate ground as the father of the Petitioner expired in an accident on duty. While to, the Petitioner was issued with a charge-sheet for major penalty under Regulation 10 of Visakhapatnam Port Employees (Classification, Control and Appeal) Regulations, 1968 alleging therein that he was irregular in attending to his duties. He is in habit of absenting from duty and submits belated leave applications to cover the period of his absent. He is intentionally away from the duty for no valid reasons. It was further alleged that Petitioner availed 10 days leave during period 22-12-2001 to 8-2-2002, out of which two days leave was not granted, thus he violated Regulation 3(1)3 (3-A)(b) of Visakhapatnam Port Employees (Conduct) Regulations, 1964. Petitioner submitted his explanation to the charge-sheet explaining the reasons of his absence and informed the management that his mother is dependent on him who is inflicted with jaundice and she was to be given frequent allopathic and ayurvedic medicines and to visit the Doctors and as such, he requested the management to be sympathetic and exonerate him from the charges, the same was not considered by the management and domestic enquiry was ordered and conducted and after receipt of the report of the Enquiry Officer the Petitioner was removed from the service vide proceedings dated 5-7-2002. He preferred an appeal which was rejected vide proceedings dated 30-8-2002 a review petition was filed and it was rejected vide proceedings dated 27-4-2004. Hence, the Petitioner has approached this tribunal for quashment of the dismissal order and raised this industrial dispute.

3. Respondent management has filed counter statement alleging therein that the Petitioner workman has admitted all the allegations levelled against him, thus, the present industrial dispute is not maintainable. The

Respondent management has not violated any statutory provision or rule. The enquiry was conducted as per rules, the Petitioner workman was offered fair and proper opportunity to participate in the enquiry proceeding. He participated in the proceeding. Enquiry Officer submitted his report holding that the Petitioner remained absent without any reason. During course of enquiry to ascertain the correct position why the Petitioner used to remain absent, the mother and sister of the Petitioner were called upon by the Disciplinary Authority who informed the Disciplinary Authority that she is maintaining good health and stated that workman used to sleep at home even during the day time, that she is insisting and asking him to go for the duty but he seldom obeyed her. The Enquiry Officer submitted his report dated 20-6-2002 holding the charge proved. On the basis of information from mother and sister and the enquiry report, the Petitioner was dismissed from service. He preferred appeal which was rejected and he was removed from service on the cogent grounds.

4. Parties were given opportunity to produce their evidence. Workman and management both have filed their affidavit and counter affidavit separately. Management has filed the entire proceedings book of the enquiry proceeding which consists of 65 pages and 39 documents.

5. Before hearing the parties under Sec.11A of the Industrial Disputes Act, 1947 the question of legality and validity of the domestic enquiry was considered first. Learned Counsel for the Petitioner workman filed memo dated 24-7-2010 stating therein that he does not challenge the legality and validity of the domestic enquiry and it may be declared valid on the basis of this memo domestic enquiry was held to be legal and valid and the case was posted for argument.

6. Both the parties were heard under Sec.11A of the Industrial Disputes Act, 1947 on the merit of the case and for determination of legality and validity and credence of the dismissal order. It has been argued by the Learned Counsel for the workman that the present workman was appointed on compassionate ground and he is of adolescent age, he was looking after his mother's illness and that was the reason, he remained absent on some of the occasions. He was served with the charge-sheet for his absenteeism for the period from 22-12-2001 to 8-2-2002 out of which only two days leave was not sanctioned to him and he remained absent for 10 days i.e., 12 days absence. Even if it is presumed that the factum of absence of the Petitioner for 12 days had been proved by the management during course of the enquiry, for absence of only 12 days, a workman should not be punished with dismissal from the service. He has further argued that no doubt, the domestic enquiry was conducted and Petitioner workman has participated in such enquiry. The management states that the mother of the Petitioner was called upon by the Disciplinary Authority and the statement was recorded but there is no evidence or statement of the mother of the Petitioner workman produced before this tribunal to prove

that Petitioner's mother stated before the Disciplinary Authority, the Petitioner used to sleep during day time and he is not obeying his mother though his mother is asking him to go and perform his duties. He further argued that before the charge sheeted period the Petitioner is alleged to be absent for 5 days during 6-11-2001 to 11-12-2001, but that period has not taken into consideration nor for that period any charge sheet was given to the Petitioner. Thus, the absence for only ten days or 12 days or even for 23-5-2001 to 30-8-2001 is not such a misconduct for which punishment of dismissal could be said to be appropriate punishment. The Petitioner is the sole bread winner of his family, his father expired while working under the Respondent management as such, a lenient and humanitarian approach should have been adopted by the management while imposing the punishment on the Petitioner.

7. As against this, argument of the Learned Counsel for the workman, Learned Counsel for the Respondent has argued that the Petitioner remained absent from 6-11-2001 to 11-12-2001, 22-12-2001 to 26-12-2001, 23-5-2001 to 13-8-2001 and 3-4-2002 to 12-4-2002 as such, under clause 3(1)3 (3-8)(b) of the Visakhapatnam Employees Conduct Regulations, 1964 such action of the Petitioner workman is grave misconduct and he deserves to be dismissed from service and the management has not committed any illegality in dismissing the Petitioner from service.

8. In the light of the above submissions of Learned Counsel for the parties and documents produced by Respondent management, this tribunal has to consider,

(I) Whether the action of the management in dismissing the services of the Petitioner is legal and justified?

(II) To what relief if any the Petitioner is entitled for ?

9. **Point No. (I) :** In order to consider this important question, I have gone through the departmental proceeding book. There is no report of marine engineer dated 19-12-2001 the marine engineer informed that the workman Sri B. V. Suresh has been absenting from duty from 16-11-2001 to that date. What action has been taken on this letter is not disclosed. There is another report dated 27-12-2001 through which it has been informed that the workman Sri B.V. Suresh was absent from 22-12-2001 to 26-12-2001 and reported for duty on 27-12-2001. The charge sheet shows that the Petitioner was asked to explain regarding absence from duty from 22-12-2001 to 18-2-2002 out of which two days leave was not granted to him and he absented for 12 days. This is the only charge which was levelled against the Petitioner though there is another report dated 12-4-2002 through which it was reported that Sri B.V. Suresh remained absent on 1-4-2002 and from 3-4-2002 to 12-4-2002. The entire allegation made against the Petitioner goes to show that Petitioner was absent from 22-12-2001 to 26-12-2001 though there is not report of absenteeism from

22-12-2001 to 8-2-2002 thus, the charges levelled against the Petitioner workman that he remained absent during 22-12-2001 to 8-2-2002, does not appear to be correct because, it has further been stated in the charge sheet that during this period he has availed 10 days leave and two days leave has not been granted to him though he remained absent for 12 days. This shows that during 22-12-2001 to 8-2-2002 Petitioner has remained absent for two days without leave and for this period of absence the services of the Petitioner should not have been terminated because two days absence is not very serious misconduct. Again if it is taken that Petitioner was absent from 3-4-2002 to 12-4-2003, that comes to 10 days absence and 10 days absence is also not of such a serious nature for which services of the workman could have been terminated. Thus, in my view the Petitioner who is an adolescent who was appointed on the compassionate ground should have been given opportunity to modify and correct himself and the dismissal order is unjustified and it is excessive and disproportionate to the misconduct committed by the workman and deserves to be quashed. Point No.(I) is decided accordingly.

10. **Point No. (H) :** This tribunal has to come to the conclusion that the punishment imposed on the workman is disproportionate and excessive hence, the dismissal order deserves to be set aside and in place of dismissal order a punishment of stoppage of five increments will be appropriate and proper punishment in the present case. Petitioner deserves to be reinstated in the service. However, he shall not be entitled for full back wages. He will be given only 1/3rd of the back wages for the period he filed this petition before this tribunal. However, he shall not be entitled for any back wages during the period, he did not prefer this petition before this tribunal. Point No.(II) is decided accordingly.

11. It has been argued by the Learned Counsel for the Respondent that Petitioner has filed this petition after 3½ years and as such, the petition deserves to be dismissed. I have considered this argument. The legislation in his wisdom has not fixed any period of limitation to file a petition under Sec.2A(2) when this petition was presented before this tribunal, as such, it can not be said that the petition is barred by limitation or is not maintainable for the delay and latches.

12. As the Petitioner deserves to be reinstated, the dismissal order is quashed, the Respondent management is directed to reinstate the Petitioner within two months from the publication of award. After the reinstatement the Petitioner shall be entitled to the extent of 1/3rd back wages of basic pay which he was getting at the time of his dismissal order that too for the period he presented this petition before this tribunal and till the date of his reinstatement. He will not be entitled for any back wages during the period, he did not prefer this petition. Parties shall bear their costs.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 17th day of January, 2010.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

| | |
|---------------------------------------|---------------------------------------|
| Witnesses examined for the Petitioner | Witnesses examined for the Respondent |
|---------------------------------------|---------------------------------------|

| | |
|-----|-----|
| NIL | NIL |
|-----|-----|

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 1 मार्च, 2011

का.आ. 851.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एनजीपी-31/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 24-2-2011 को प्राप्त हुआ था।

[सं. एल-12012/197/2001-आई आर (बी-II)]
रमेश सिंह, डेस्क अधिकारी

New Delhi, the 1st March, 2011

S.O. 851.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/NGP-31/2002) of the Central Government Industrial Tribunal/Labour Court, Nagpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Maharashtra and their workman, which was received by the Central Government on 24-2-2011.

[No. L-12012/197/2001-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

**BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No.CGIT/NGP/31/2002

Date: 22-02-2011.

Party No.1 : The Regional Manager,
Bank of Maharashtra, Regional Office,
Sudhir Colony Road, Akola -440005.

Versus

Party No.2 : Shri Sudhir Devidas Naga,
C/o Sharma's House, Gali No.5, Namuna,
Amaravati.

AWARD

(Dated: 22nd February, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of the Bank of Maharashtra and their workman, Shri Sudhir Devidas Naga for adjudication, as per letter No.L-12012/197/2001-IR(B-II) dated 29-04-2002, with the following schedule :—

"Whether the action of the management of Bank of Maharashtra through its Regional Manager and the General Manager, Shivaji Nagar, Pune in not reinstating the workman Shri Sudhir S/o Devidas Naga who was convicted by the JMFC Court and on an Appeal the Hon 'ble Session Court gave him the benefit under Sections 3 & 4 of Probation of offenders Act and finally waived off the punishment is proper, legal and justified? If not, what relief the said workman is entitled to?"

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in accordance with which, Shri Sudhir Devidas Naga, the workman ("the workman" in short) filed his statement of claim and the management of Bank of Maharashtra (Party No.1 in short) filed its written statement.

The case of the workman is that he was appointed as a Peon in the Bank of Maharashtra and was posted at Rukhmini Nagar Branch w.e.f. 27-7-78 and on 6-3-90, he was dismissed from service while he was working at Palaso Badhe Branch in the district of Akola and the cause of his dismissal was his conviction in criminal case No.276/1987, under Section 379 of the Indian Penal Code by the 6th Court of Judicial Magistrate First Class, Amravati and against the order of his conviction, he had preferred an appeal before the Court of Session Judge, Amravati, vide Criminal Appeal No.82/88 and the said criminal appeal was disposed of on 30-6-92 and though the order of conviction was upheld by the Session Judge, the sentence of imprisonment of Rigorous Imprisonment of three months imposed by the JMFC was modified and he was directed to be released on probation, as per the provisions of sections 3 & 4 of the Probation of Offenders Act on his executing a bond of good behaviour for one year and to remain under supervision of the Probation Officer of Amravati for the said period of one year and according to the orders of the Session Judge, he executed a bond for good behaviour for one year and remained under the supervision of the District Probation Officer, Amravati from 30-6-92 to 29-6-93 and

successfully and satisfactorily completed the said one year of supervision and though on several occasions he requested the Party No.1 in writing to reinstate him in service, in view of Section 12 of Probation of the Offender Act, the Party No.1 did not pay any attention and also did not reinstate him in service and the District Probation Officer had also requested the Party No.1 for his reinstatement but the Party No.1 expressed its inability for his reinstatement and there was no departmental enquiry against him. The workman has prayed for a declaration that he is not disqualified for service in view of his conviction under Section 379 of IPC and to direct the Party No.1 for his reinstatement in service with full back wages and other benefits.

3. The Party No.1 in its written statement has admitted that the workman was appointed as a Peon in Rukhmini Nagar, Amravati Branch w.e.f. 27-7-78. However, it has pleaded that the workman was convicted in criminal case No.276/87, under Section 379 of the IPC by the 6th Court of JMFC, Amravati and was sentenced to undergo rigorous imprisonment for three months and to pay a fine of Rs.500 and in default of payment of fine, to undergo rigorous imprisonment for three months, as per order dated 27-9-88 and due to such conviction of the workman, the bank vide its order AX19/AR/ST/54/90/1526 dt.6-3-90 dismissed the workman from service, as per clause 19.3 (b) of the Bipartite Settlement and the workman preferred an appeal against the order of conviction, vide criminal appeal no.82/88 in the Court of Sessions Judge, Amravati and the Sessions Judge confirmed the order of conviction on 30-6-92 but modified the order and gave him the benefit of Probation of the Offenders Act and the workman had approached the bank in writing requesting for his reinstatement in service as he was released under the Probation of Offenders Act, but by letter bearing No.AX1/STBPS/6329 dt.7-5-94, it had informed the workman its inability to accede to his request, giving necessary reasoning for the same and in view of the principles enunciated by the Hon'ble Apex Court, in the case of Harichand Vs Director of School Education (CA No.1451/1987 dt.14-1-98), the contention of the workman regarding Section 12 of the Probation of Offenders Act is not tenable and as such the workman is not entitled for any relief.

4. It is the admitted case of the parties that the workman was working as a Peon in the bank and he was convicted in criminal case No. 276/87, under Section 376 of the IPC by the 6th Court of Judicial Magistrate First Class, Amravati and was sentenced to undergo rigorous imprisonment for three months and also to pay a fine of Rs.500 and against the order of conviction, the workman preferred an appeal before the Sessions Court, Amravati and the Sessions Judge upheld the order of conviction against the workman but modified the sentence and gave him the benefits of the provisions of Sections 3 & 4 of the Probation of Offenders Act.

5. For better appreciation of the dispute between the parties, I think it proper to quote the provision of the Section 12 of the Probation of the Offender Act, 1958, the operative portion of which reads :

"Notwithstanding any think containing any other law, a person found guilty of an offence and dealt with under the provisions of Section 3 & 4 shall not suffer disqualification if any, attaching to a conviction of an offence under such law".

Taking into consideration the provision of Section 12 of the Probation of the Offenders Act, the Hon'ble Apex Court in the decision reported in ILLJ, 1998, Pg.221, (Harichand Vs. Director of School of Education) have held that

"in our view Section 12 of the Probation of Offender Act would apply only in respect of a disqualification that goes with a conviction under the law which provides for the offence and its punishment. i.e. the plain meaning of the words disqualification, if any, attaching to a conviction of an offence under such law therin. Where the law that provides for an offence and its punishment also stipulates a disqualification, a person convicted of the offence but released on probation does not by reason of Section 12 suffer the disqualification. It cannot be held that, by reason Section 12, a conviction for an offence should not be taken into account for the proposed of dismissal of the person convicted from the government service".

Applying the principles enunciated by the Hon'ble Apex Court in the decision mentioned above, to the present case at it hand, it is found that the Party No.1 acted rightly in not reinstating the workman in service. It is also found from the provision of clause 19.3 (b) of the Bipartite Settlement that a workman of the Bank in question can be dismissed from service in case of his conviction in any criminal case with effect from the date of his conviction and there is no requirement for initiation of a departmental enquiry for the same. Hence, it is ordered :

ORDER

The action of the management of Bank of Maharashtra through its Regional Manager and the General Manager, Shivaji Nagar, Pune in not reinstating the workman Shri Sudhir S/o Devidas Nage, who was convicted by the JMFC Court and on an Appeal the Hon'ble Session Court gave him the benefit under Section 3 & 4 of Probation of offenders Act and finally waived off the punishment is proper, legal and justified and the workman is not entitled for any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 1 मार्च, 2011

का.आ. 852.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के

प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 53/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 24-2-2011 को प्राप्त हुआ था।

[सं. एल-12012/36/2007-आई आर (बी-II)]
रमेश सिंह, डेस्क अधिकारी

New Delhi, the 1st March, 2011

S.O. 852.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 53/2007) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Bank and their workman, which was received by the Central Government on 24-2-2011.

[No. L-12012/36/2007-IR(B-II)]
RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday, the 8th April, 2010

Present: A.N. JANARDANAN, Presiding Officer

INDUSTRIAL DISPUTE No. 53/2007

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Indian Bank and their Workman)

BETWEEN

Sri V. Shanmugam : I Party/Petitioner
No. 32-B, Lajapathi Nagar
Malayala Medu, Pettai
Tirunelveli-627004

Vs.

The Deputy General Manager : II Party/Management
Indian Bank, Circle Office
S.N. High Road
Tirunelveli-627001

APPEARANCE:

From the Petitioner's side : M/s. K.M. Ramesh
From the Management's side : M/s. T.S. Gopalan & Co.

AWARD

The Central Government, Ministry of Labour vide its Order No. L-12012/36/2007-IR(B-II) dated 18-09-2007

referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the punishment of Compulsory Retirement imposed on Shri V. Shanmugam by the management of Indian Bank, Tirunelveli is legal and justified? If not, to what relief, the workman is entitled?”

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as 10/2009 and issued notices to both sides. Both sides entered appearance through their respective counsel and filed their Claim and Counter Statement as the case may be.

3. The contentions raised in the Claim Statement briefly read as follows:

The petitioner while was Peon at Sivakasi branch of the Respondent/Bank was suspended on 30-08-2004 on the allegation that on 27-08-2004 he had stolen Rs. 5,000/- from the branch. On the report of investigation the petitioner was issued a memo on 08-09-2004 alleging misconduct under Clause-5(j) of the Bipartite Settlement. The petitioner denied the charges in the explanation submitted on 15-10-2004. He was charge sheeted on 05-01-2005. The enquiry was conducted from 27-01-2005 to 11-08-2005 examining MW1 to MW3 and marking MEX1 to MEX9 and examining the petitioner as PW1. It was conducted against the principles of natural justice and in an improper and unfair manner. Only short time was allowed to the petitioner to produce his witness. Merely based on admission letter forcibly extracted from the petitioner Investigating Officer concluded that the petitioner is the culprit. The ten 500 Rupee notes were not produced. The fact that the ten 500 Rupee notes could not be kept inside a dughole in a busy road has been lost sight of by the officials. To the report of enquiry finding the petitioner guilty the petitioner submitted comments on 24-11-2005. By letter dated 23-12-2005 he was intimated the proposed punishment of compulsory retirement also calling him for personal hearing on 06-01-2006. He responded and pleaded innocent. On 09-02-2006 the proposed punishment of Compulsory Retirement was imposed. The appeal was rejected on 11-05-2006. Hence the ID. The punishment is illegal, unjustified and in victimization and unfair labour practice. The petitioner is made a scapegoat. The evidence is untrustworthy, unnatural and unrealistic. The finding is perverse. The evidence of DW1 was not considered due to bias. The conclusion is on assumptions, presumptions, surmises and conjectures. The Appellate Authority has not applied mind in rejecting the appeal. The Tribunal may re-appreciate the evidence under Section-11A of the ID Act. The petitioner may be reinstated with all benefits.

4. The contentions raised in the Counter Statement briefly read as follows:—

Due to Ischemic Heart ailment petitioner/sub-staff had been on leave from 30-12-2003 on pay and on loss of pay from 07-01-2004. He resumed duty on 05-07-2004. He was highly indebted due to his ailment. On his request he was relieved of the obligation of lifting or carrying Cash Box or heavy item from the Cashier Counter to the Safe Room which in turn was entrusted to part-time sweeper. After closing the business, the cash will be verified and found to tally. On 27-08-2004 the petitioner was asked to carry currency bundles to the safe which however was done by Sanjeev Raj, PTSK. After return Sri Sanjeev Raj informed Ravi, Cashier that V. Shanmugham, petitioner was found to have removed some 500 denomination notes from the carried currency bundles. On re-checking the safe 10 pieces of 500 denomination notes were missing. The petitioner was questioned by the Branch Manager on this who accepted the misconduct. He also admitted to have had hidden the notes. The petitioner accompanied by Ponnusamy went out of the branch and on return petitioner handed over 10 pieces of 500 denomination notes which notes as informed by Ponnusamy were hidden near a temple. The petitioner in a letter admitted theft of Rs. 5,000. The petitioner was suspended on 30-08-2004. Investigation report revealed petitioner's involvement. On 08-09-2004 Show Cause Notice was issued to the petitioner to which in the reply dated 18-10-2004 he denied the allegations. On 05-01-2005 he was charge sheeted. The enquiry was held culminating in the report dated 31-10-2005 finding the petitioner guilty. Copy of the report was given to the petitioner. Notice dated 23-12-2005 proposing punishment of compulsory retirement and also for personal hearing on 06-01-2006 was issued. The petitioner made representation. The punishment was ordered on 09-02-2006. The punishment is fully justified and is not liable to be interfered with. The enquiry was conducted in accordance with principles of natural justice, which the petitioner affirmed. There is no further scope for challenge. The finding is not perverse. It was rendered on the basis of evidence let in coupled with the confession letter of the petitioner. Appellate order is also not bad in law. The punishment is proportionate to the misconduct. The petitioner has received gratuity and PF dues apart from being eligible to monthly pension of Rs. 1858.61. The punishment is only to be upheld.

5. The evidence consists of oral evidence of the petitioner as WW1 and Ex.W1 to Ex.W12 on his side. On the side of the Respondent Ex.M1 to Ex.M14 were marked, all on consent. No oral evidence was adduced on the Respondents side.

6. Points for consideration are:

- (i) Whether the Compulsory Retirement of the petitioner is legal and justified?
- (ii) What relief the concerned workman is entitled to?

Point (i) & (ii)

7. Heard both sides and perused the documents and records. The learned counsel for the petitioner would contend that actually the petitioner was forced to admit theft which he did in writing as per Ex.W2. He later retracted the confession. The witness examined on the Respondent's side in the enquiry disowned knowledge of the recovery of notes from nearby temple. He continued to argue that there is no application of mind by the Enquiry Officer. The finding is perverse one sided and the punishment is unjust and is out of proportion.

8. As against this the learned counsel for the Respondent would contend that it is on the information furnished by the part-time sweeper that the incident came to be known. On re-checking the said factum of removal of 10 pieces of 500 Rupee currency notes was found to be true which is confirmation of truth by a subsequent event. The petitioner also admitted the misconduct voluntarily though he later retracted it. He also made good the amount. There was no complaint by the petitioner against the enquiry held. He was affirming the validity of the enquiry.

9. On a consideration of the contentions on either side and scrutiny of the evidence, it could be seen that there is no substance in the argument on behalf of the petitioner. The enquiry was conducted in a befitting manner. The conclusion arrived is also on the basis of legal evidence coupled with the confession given by the petitioner which though was retracted but which is only as an outcome of an afterthought. The pertinent question is not whether there is sufficient evidence but whether there is some credible evidence legally acceptable upon which a decision could rest. The fact that the removed currency notes were restored by the petitioner alone is a cogent circumstance to hold that the petitioner alone was the person who removed the 10 currency notes of 500 Rupee denomination from the bundle. In other words the admission of guilt by the petitioner is confirmed by the restoration of the notes amounting to affirmation of a fact by subsequent event. It could be seen that the finding was arrived at on some legal and credible evidence which is enough to tilt the preponderance of probability against the petitioner. The same material is logically probative to any prudent mind to hold that the petitioner is the culprit. Therefore, the finding is also not liable to be assailed and is only to be upheld. Having regard to the nature of the misconduct conducted there is also no scope for interfering with the punishment which is only to be confirmed as being just and legal. The same is also upheld. Therefore the petitioner is not entitled to any relief.

10. The reference is answered accordingly.

(Dictated to the PA, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 8th April, 2010)

04-05-2005
30-05-2005
11-08-2005

Proceedings of enquiry

A. N. JANARDANAN, Presiding Officer

EX.M3 28-08-2004

Witnesses Examined :

For the I Party/Petitioner WW1 Sri. V. Shanmugam

For the II Party/Mgmt. None

Documents marked :—

On the petitioner's side

| Ex. No. | Date | Description | | |
|---------------------------------|--------------------------|---|---------|---|
| EX.W1 | 30-08-2004 | Show Cause Notice issued by the Respondent Bank to Petitioner | EX.M4 | 02-09-2004 |
| EX.W2 | 30-08-2004 | Letter from the petitioner to General Manager of the Respondent/Bank | | Investigation report by S. Thirunavukarsu, Vigilance Officer, CO, Tirunvelveli with enclosures |
| EX.W3 | 08-09-2004 | Show Cause memo issued to the petitioner by the Respondent/Bank | EX.M5 | August 2004 |
| Ex.W4 | 15-10-2004 | Petitioner's reply to the Show Cause Memo. | EX.M6 | 27-08-2004 |
| Ex.W5 | 05-01-2005 | Letter from the Respondent/ Bank appointing Enquiry Officer | EX.M7 | - |
| Ex.W6 | 31-10-2005 | Enquiry Officer's report | | Letter addressed to CO by Mr. C. Peru mal, Advocate, Palayamkottai enclosing documents |
| Ex.W7 | 24-11-2005 | Petitioner's comments on the enquiry report | EX.M8 | - |
| Ex.W8 | 23-12-2005 | Show Cause Notice by the Respondent/Bank proposing punishment | EX.M9 | - |
| Ex.W9 | 06-01-2006 | Petitioner's reply to the show cause notice | | Branch circular (Confidential) issued by CO, Tirunelveli instructing the branch Managers not to purchase/ discount any Cheque/Pay Order of V. Shanmugam |
| Ex.W10 | 09-02-2006 | Letter enclosing final order imposing punishment of Compulsory Retirement | EX.M10- | |
| Ex.W11 | 09-02-2006 | Final order imposing punishment | | Copy of SB Ledger extract of A/c No. 3172 of V. Shanmugam |
| Ex.W12 | 15-03-2005 | Petitioner's appeal to the General Manager | EX.M11- | Salary particulars of Mr. V. Shanmugam for July and August, 2004 |
| On the Management's side | | | | |
| Ex.No. | Date | Description | EX.M12 | 06-01-2006 |
| Ex.M1 | 06-01-2005 | Proceedings of conversation between Shanmugam with AGM/CM Sivakasi Branch | EX.M13 | 22-04-2006 |
| Ex.M2 | 27-01-2005 03-05-2005 | | EX.M14 | 08-01-2008 |
| | | | | Proceedings of personal hearing before DGM/ Disciplinary Authority |
| | | | | Copy of PF receipt |
| | | | | Copy of Gratuity Receipt |

नई दिल्ली, 1 मार्च, 2011

का.आ. 853.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार देना बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पचाट (संदर्भ संख्या सीजीआईटी/एनजीपी-74/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 24-2-2011 को प्राप्त हुआ था।

[सं. एल-12012/34/1993-आई आर (बी-II)]
रमेश सिंह, डेस्क अधिकारी

New Delhi, the 1st March, 2011

S.O. 853.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/NGP-74/2003) of the Central Government Industrial Tribunal/Labour Court, Nagpur, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Dena Bank and their workman, which was received by the Central Government on 24-2-2011.

[No. L-12012/34/93-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/74/2003

Date: 15-02-2011.

Party No. 1 : The Regional Manager,
Dena Bank, Nasik Region,
Shalimar Hall, Shivaji Road,
MH No. 1370/J,
Nasik City-422 001.

Versus

Party No. 2 : Shri K.M.Shrikhande,
Through Bank of Baroda
Employees Congress, A-10/40,
Pragati Housing Co-Op. Society,
Near Sonegaon Tank,
Khamla, Nagpur.

AWARD

(Dated : 15th February, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government had referred the industrial dispute between the employers, in relation to the management of the Dena Bank and their workman,

Shri K.M.Shrikhande ("the workman" in short) for adjudication to the CGIT, Jabalpur, as per letter No. L-12012/34/93-IR(B-II) dated 30-7-1993, with the following schedule :-

"Whether the action of the management of Dena Bank Zonal Office, Pune in relation to their Dharampeth Branch, Nagpur in dismissing the services of Shri K. M. Shrikhande, Cashier-cum-Clerk w.e.f. 2-7-1990 is legal, justified and proportionate to the misconduct committed by the workman? If not, to what relief the workman is entitled?"

Subsequently, the reference was transferred to this CGIT (CGIT, Nagpur) for disposal in accordance with law.

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in response to which, the Bank of Baroda Employees Congress, the union filed the statement of claim for the workman and the management of Dena Bank (Party No.1 in short) filed their written statement.

It is necessary to mention here that before the reference was made by the Central Government, the workman expired, so the union filed the statement of claim stating that though the workman had expired, his legal heirs-cum-dependents are surviving and they will be benefited, if the reference will be answered in favour of the workman.

The case of the union is that while the workman was employed by Party No.1 at its Dharampeth Branch, Nagpur, was served with the charge sheet bearing No.ROM/PER/4444 / 88 dated 11-11-1988 by the Disciplinary Authority, the Regional Manager, Nasik Region and the departmental enquiry was conducted by Shri A.P.Barve and the findings of the Inquiry Officer were concurred by the Disciplinary Authority and the Disciplinary Authority proposed the punishment of stoppage of four annual increments with cumulative effect fixing the date of personal hearing as 22-1-1990 at 2.00 PM at Nasik and though the workman attended the place at Nasik, no hearing took place and no reason was communicated to him while sending him back to Nagpur and the workman was served with another letter bearing No.RON/PER/249/90 on 24-1-1990 at Nagpur, by which, he was informed that the hearing was postponed and he would be informed about the next date in due course of time and the Disciplinary Authority instead of communicating fresh date of hearing, served second memorandum bearing No.RON/PER/1209/90 dated 8-3-1990 on the workman, proposing fresh punishment of "dismissal from services of the bank with immediate effect, without notice", for each of the charge proved against him, fixing the date of hearing as 23-3-1990 at 2.00 PM at Nasik and the workman attended the hearing and raised his objection for the entire action taken against him by

way of disciplinary action, in violation of the provisions of the awards/settlement in force and the provisions of law and after his return from Nasik, he raised an industrial dispute before the Asstt. Labour Commissioner (C), Nagpur on 3-4-1990 challenging the validity of the order RON/PER/1209/90 dated 8-3-1990 and the Party No.1 attended the conciliation proceeding and while the conciliation proceedings was in progress, the Party No.1 served the order of dismissal on the workman on 11-5-1990, in violation of the provisions of Section of 33 of the I. D. Act and the Appellate Authority passed the order MZP/PER/DISC/3258/90 dated 2-7-1990, confirming dismissal order passed by the Disciplinary Authority during the pendency of the conciliation proceeding and the Government of India after receipt of the failure report referred the dispute to the Tribunal for adjudication. Prayer has been made to answer the reference in favour of the workman alongwith consequential benefits.

3. The Party No.1 filed an application stating that action was taken against Shri Shrikhande, Cashier-cum-Clerk on the basis of charges levelled against him and after conducting a departmental enquiry and before the reference was made, the workman, Shri Shrikhande expired on 8-4-93 and as the workman concerned expired, prior to making of the reference the dispute itself did not survive and no legal representative of deceased workman appeared before the Tribunal and the legal heirs of the workman were not impleaded as parties in the reference and as such, there is no question of adjudication of a dispute of a dead person.

4. As this a case of dismissal from service of the workman after holding a departmental enquiry, the CGIT, Jabalpur considered the validity of the departmental enquiry as a preliminary issue and held the departmental enquiry to be proper and legal and fixed the case for hearing on the question of perversity of findings and quantum of punishment.

5. It is necessary to mention here that after 13-5-2009, both the parties remained absent and did not take part in the proceeding. Hence, the case was closed and was posted for passing of award. As my predecessor-in-office did not pass the award, the case was reopened, in the interest of justice and both the parties were noticed to appear before the Tribunal for making argument regarding the perversity of the findings and quantum of punishment. In spite of sufficiency of service of the notice, both the parties did not appear to take part in the proceeding and as such, the case was closed on 28-11-2010 and was posted for award.

6. Admittedly, the workman was already dead before filing of the statement of claim. Though the union, which has, filed the statement of claim mentioning that the benefits will be to the enure of the legal heirs of the deceased workman in case of answering of the reference

in his favour, there is nothing on record to show that actually the deceased workman has or had any legal heir and the so called legal heirs had authorized the union in question to agitate the matter before the Tribunal. As such, it is held that the adjudication of the reference was not required.

7. However, in the interest of justice, perused the documents on record. From the documents of the departmental enquiry, it is found that the findings of the Inquiry Officer are based on the evidence on record and the same are not perverse. It is also found that the workman had admitted the shortage of cash of Rs. 16,400 from the cash in his hand of the bank on 12-8-1988. The workman was an employee of the bank and he misappropriated a sum of Rs. 16,400 from the cash of the bank, by betraying the confidence reposed upon him, by the bank. Hence, I find that the punishment of dismissal from service imposed against the workman by the Party No.1 is also not shockingly disproportionate to the proved serious misconduct against him. There is no scope to interfere with the punishment imposed against the workman. Hence, it is ordered:

ORDER

The action of the management of Dena Bank, Zonal Office, Pune in relation to their Dharam Peth Branch, Nagpur dismissing the services of Shri K.M. Shrikhande, Cashier-cum-Clerk w.e.f. 2-7-1990 is legal, justified, and proportionate to the misconduct committed by the workman. The workman or his legal heir, if any, is not entitled for any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 1 मार्च, 2011

का.आ. 854.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार त्रावणकोर टिटेनियम प्रोडक्ट लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, इरनाकूलम के पंचाट (संदर्भ संख्या 15/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 28-2-2011 को प्राप्त हुआ था।

[सं. एल-43011/2/2009-आई आर (एम)]
जोहन तोपना, अवर सचिव

New Delhi, the 1st March, 2011

S.O. 854.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 15/2010) of the Central Government Industrial Tribunal/Labour Court, Ernakulam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the

management of M/s. Travancore Titanium Products Ltd. and their workmen, which was received by the Central Government on 28-2-2011.

[No. L-43011/2/2009-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present: Shri D. SREEVALLABHAN, B.Sc., LL.B.,
Presiding Officer
(Monday the 24th day of January, 2011/4th Magha,
1932)

I.D.15/2010

Union : The General Secretary,
Titanium Workers Union (AITUC),
Kochuveli,
C/o. Travancore Titanium Products Ltd.,
Thiruvananthapuram.
(In person).

Management : The Managing Director,
Travancore Titanium Products Ltd.,
Post Box No. 1,
Thiruvananthapuram-695 021.
By M/s. B.S. Krishnan Associates.

This case coming up for hearing on 17-01-2011, this Tribunal-cum-Labour Court on 24-01-2011 passed the following.

AWARD

This is a reference made under Section 10(1)(d) of Industrial Disputes Act, 1947. The reference is :

“Whether the action of the management of M/s. Travancore Titanium Products, Trivandrum in not Promoting Shri. K. Jayakumar, Charge Hand (W.No. 1601) to the post of Supervisor (Electrical) even though Shri Jayakumar was the senior most employee in the Grade of Charge Hand is justified? What relief the workman is entitled to?”

2. The claim statement was filed by Sri. K. Jayakumar himself in his capacity as General Secretary of the Titanium Workers Union (AITUC), Kochuveli, Thiruvananthapuram complaining about the refusal to promote him in the vacancy of the post of Supervisor (Electrical) even though he is eligible for promotion being the senior most in the post of Chargehand Electrician, redesignated as Senior Electrician, and by making the prayer for directing the management to promote him to that post with retrospective effect from 15th May, 2009.

3. According to him he was appointed as Electrician w.e.f. 13-04-1987. His promotion to the post of Senior Electrician was unduly delayed for a period of 20 months by the management and thereby he could not have

completed the required two years experience as Senior Electrician for promotion to the post of Supervisor (Electrical) and hence relaxation to be given in his case with regard to the prescribed qualification of two years experience for promotion. His request for promotion by way of giving relaxation of the period of 20 months was rejected by the management without assigning any valid reason.

4. In the written statement filed by the management it is admitted that there was delay in giving promotion to him for the post of Senior Electrician. But it is contended that it was occurred due to re-fixation of manpower with the consent of the union due to financial crisis existed at that time and that the same does not assume any relevance in considering the question of promotion to the post of Supervisor (Electrical) since it is not a matter coming within the scope of the reference to this tribunal. It is further contended that he is not entitled to claim relaxation for the period of delay in giving promotion in the previous post and that the management is not invested with any power to allow the same. It cannot also be done since the post of Supervisor (Electrical) comes under the purview of P.S.C. and requires its concurrence for relaxation of the Promotion Rules. He could not have been given promotion to the post of Supervisor (Electrical) as he was not having two years experience in the post of Chargehand Electrician. But he was given upgradation benefits and enjoyed the full monetary benefits to that extent. He cannot claim promotion as a matter of right and hence he is not entitled to the relief sought for by him in the claim statement.

5. In view of the contentions raised in the written statement union filed a rejoinder and an additional rejoinder further alleging that the management had given promotion to some posts during the period while discussions were going on with the recognized unions about the re-fixation of manpower. It was the responsibility of the management to get approval of the P.S.C. for relaxation of the period of experience in view of the fact that he was not able to achieve the required experience due to the delay in giving promotion owing to the inaction and delaying tactics of the management. There was relaxation of qualification with regard to experience for the appointment to the post of Assistant Engineer even after the reference in this case. Since he was the Secretary of the Trade Union, his promotion in the previous post was delayed with the intention to block his future prospects and it is an unfair labour practice coming with in the purview of item 4(d) of Part-I of the 5th Schedule of Industrial Disputes Act, 1947.

6. The point for determination is:

Whether the action of the management in not promoting Shri K. Jayakumar, Chargehand Electrician to the post of Supervisor (Electrical) is justified and if not what relief the workman is entitled to ?

7. No oral evidence was adduced from both sides. Exts.W1 to W9 were marked on the side of the union and

Exts.M1 to M-13 were marked on the side of the management on consent.

8. The Point:- Promotion to the post of Supervisor (Electrical) is from Chargehand Electrician with the required qualification and experience in the order of seniority. Qualification and experience prescribed for promotion is specified in Sl. No. 24 of Schedule-3 of the Subordinate Service Rules and the same can be seen from Ext. M6. It provides the qualification and experience to be:

24. SUPERVISOR (ELECTRICAL).

(A) Promotion from Chargehand Electrician.

- (1) III Form or VII Standard with 5 years experience as Chargehand Electrician;
or
- (2) ITI in Electrician Trade or equivalent with 2 years experience as Chargehand Electrician;
or
- (3) Diploma in Electrical Engineering with 1 year experience as Chargehand Electrician.

It is also provided that employees working as Chargehands as on 1-04-1985 with 8 years experience and having ability to read and write English as certified by a test will be considered for promotion along with other eligible candidates.

9. The grievance of the workman is about the denial of his claim for promotion to the post of Supervisor (Electrical) by the management. He had joined the service of the management company as Canteen Mazdoor on 25-02-1982. Later he was appointed as Work Assistant (Electrician) on 25-07-1984 and was promoted as Electrician on 13-04-1987. He was due for promotion in the vacancy of Chargehand Electrician arose on 1st July, 2007. But he was promoted to that post only on 30-12-2008.

10. He is the senior most in the category of Chargehand Electrician. While he was the senior most and was having the required educational qualification for promotion to the post of Supervisor (Electrical) he was not given promotion in the vacancy arose in 2009 since he was not having 2 years experience as Chargehand Electrician. The delay of the period of 20 months for giving promotion to the post of Chargehand Electrician is the reason for his failure to achieve the qualifying experience for promotion to the post of Supervisor (Electrical). Whether there can be relaxation in the qualifying experience for the promotion to the post of Supervisor (Electrical) by taking into account of the period of delay in giving promotion to the post of Chargehand Electrician is the main question to be considered to answer the reference.

11. There is nothing on record to satisfy that the management is invested with the power of relax-

ations for promotion. Union has got a case that there was relaxation of qualification for the appointment of the post of Assistant Engineer. Ext. W9 notification is being relied on to satisfy it. But it will not go to show that there was relaxation of qualification for promotion. Learned counsel for the management has submitted that the relaxation was for appointment by transfer to the post of Assistant Engineer and Ext. W9 was published pursuant to CMD's order dated 26-05-2010 revising the qualifications of that post with approval of P.S.C. copy of which is marked as Ext. M-13. Ext. W9 will not in any way help the union to prove that there can be relaxation of the qualifications prescribed for promotion of Supervisor (Electrical) by the management. It is the specific case of the management that relaxation cannot be had in individual case of promotion. Hence the burden is on the union to prove that the management is competent to grant relaxation. Management has also got a case that the post of Supervisor (Electrical) comes under the purview of P.S.C. and hence any deviation by relaxation in recruitment and Promotion Rules requires concurrence of P.S.C. and that the management cannot waive the Promotion Rules in individual cases. In order to claim that there can be relaxation it is necessary to adduce evidence to prove that the management has got power for relaxation of the qualifications for promotion. As no material has been placed before this Tribunal to arrive at a conclusion that management has got independent or absolute power to relax the prescribed qualification for promotion without any amendment to the Recruitment and Promotion Rules it is not possible to hold that there can be any relaxation as to the qualifying experience required for promotion by the management.

12. Admittedly Shri K. Jayakumar was not having required experience for promotion to the post of Supervisor (Electrical) as on the date of arising the vacancy.

13. As per Rule 70.(i) of the Subordinate Service Rules contained in Ext.W1 and Ext.M-10 eligibility of candidates for promotion will normally be considered on the date of arising the vacancy which will be referred to as the "crucial date" and candidates who possess the prescribed qualifications, experience etc., as on the crucial date will alone be considered for promotion in the order of seniority. It also states that where the filling up of posts is held in abeyance due to extraordinary circumstances such as directive of the Board or Government etc., the Managing Director shall issue necessary orders to that effect. Rule 71 provides that ordinarily vacancies will be filled up within 60 days from the date of occurrence of vacancy and only those who are eligible for promotion on the crucial date will be considered for promotion even if the vacancy is filled up after 60 days. He was not promoted to the post of Supervisor (Electrical) as he was not having the required experience as on the crucial date. At that time he made request for relaxation of the qualifying service by submitting a representation dated 14-01-2009, Copy of

which was marked as Ext.W5. Afterwards on 7-05-2009 union also had submitted a representation, copy of which is Ext.W6, by making such a request. The ground stated for relaxation is the undue delay in giving promotion to him to the post of Chargehand Electrician. He was eligible for promotion to the post of Chargehand Electrician at the time of arising the vacancy on 1-07-2007. But he was given promotion only on 30-12-2008. There is period of delay of 20 months and the same is sought to be accepted as a reason for relaxation of qualifying service to the post of Supervisor (Electrical). Learned counsel for the management has vehemently argued that it is a matter which is beyond the scope of reference and it has no relevance in considering the question of promotion to the post of Supervisor (Electrical). The scope of reference is limited to the question of promotion to the post of Supervisor (Electrical). The delay in giving promotion in the previous post is not even an incidental matter which requires consideration. No challenge is seen to have been made by him about the delay in giving promotion to the post of Chargehand Electrician at any time before the submission of Ext.W5 with the request for relaxation. Even though it is a matter beyond the scope of reference there is a contention in the written statement of the management that the delay for promotion was occurred due to financial crisis and the continued discussions for reduction of manpower during that period and Exts.M8, M9, M-11 and M-12 were produced to prove the same. Those documents will go to show that the management refixed and revised the essential manpower strength in each category on financial requirement basis during 2007-2008. Exts.W2 and W3 were produced by the union to satisfy that appointments were made during that period by promotion and through direct recruitment. Learned counsel for the management has submitted that only few such appointments were made in supervisory cadre as it was inevitable. Whatever be the reason it has to be challenged at the relevant time and it has no relevance in considering the question of promotion to the next higher post of Supervisor (Electrical). No statutory provision or any Rule is brought to the notice of this tribunal to satisfy that the management can relax the qualifying experience by considering the delay in promotion in the lower post. It is not possible to give promotion without having the qualifying experience in view of Rule 70(i) of the Subordinate Service Rules. The power for relaxation of qualification for promotion is not with the management as per the existing Rules. The delay in promotion cannot be accepted as a sufficient ground for relaxing the qualifying service. Hence the management is justified in not promoting him to the post of Supervisor (Electrical) even though he was the Senior most in the grade of Chargehand Electrician.

In the result an award is passed finding that the action of the management in not promoting Shri K. Jayakumar, Chargehand (W.No.1601) to the post of Supervisor (Electrical) even though he was the senior most

employee in the grade of Chargehand is legal and justified and the workman is not entitled to any relief.

The award will come into force one month after its publication in the official gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 24th day of January, 2011.

D. SREEVALLABHAN, Presiding Officer

Appendix

Witness for the Union - Nil.

Witness for the Management - Nil.

Exhibits for the Union

- W1 - Copy of extract of Subordinate Service Rules of Travancore Titanium Products Limited, Trivandrum.
- W2 - Copy of details of promotions effected by the management during the period from 1-01-2006 to 31-12-2008.
- W3 - Copy of details of appointment by Direct Recruitment/ABT/contract done by the management during the period from 1-01-2006 to 31-12-2008.
- W4 - Copy of the Notice dated 26th April, 2007 issued by Labour Welfare Officer of the Management.
- W4(a) - Copy of the Notice dated 21st June, 2007 issued by Labour Welfare Officer of the management.
- W5 - Copy of representation dated 14-01-2009 submitted by the workman to the management.
- W6 - Copy of representation dated 7-05-2009 submitted by the union to the management.
- W7 - Copy of representation dated 18-08-2009 submitted by the Union to the Assistant Labour Commissioner (Central).
- W8 - Copy of counter comments submitted by the Union to the Assistant Labour Commissioner (Central) Thiruvananthapuram on 18-09-2009.
- W9 - Copy of Notification No.PL/A/REC/ABT/61/2010 dated 9th July, 2010 of the Travancore Titanium Products Limited, Thiruvananthapuram.

Exhibits for the management

- M1 - Copy of the Order dated 13-04-1987 of the Manager (Personnel & Administration) of the T.T.P. Limited, Thiruvananthapuram.
- M2 - Copy of the Order dated 26-04-1995 of the Assistant Manager (Personnel) of the T.T.P. Limited, Thiruvananthapuram.

- M3 - Copy of the Order dated 29-04-2003 of the Manager (Personnel & Administration) of the T.T.P. Limited, Thiruvananthapuram.
- M4 - Copy of the Order dated 31-12-2008 of the Manager (Personnel & Administration) of the T.T.P. Limited, Thiruvananthapuram.
- M5 - Copy of the Order dated 22-04-2010 of the Manager (Personnel & Administration) of the T.T.P. Limited, Thiruvananthapuram.
- M6 - Copy of the relevant page in the Subordinate Service Rules regarding promotion to Supervisor (Electrical).
- M7 - Copy of the relevant page in the Subordinate Service Rules regarding Rules 71 to 74 in Chapter VI.
- M8 - Copy of the Order of the Managing Director dated 17-03-2008 regarding refixation.
- M9 - Copy of the Minutes of the Union meeting held on 3-09-2008.
- M10 - Copy of the relevant page in the Subordinate Service Rules regarding criteria for promotion.
- M11 - Copy of the internal note to the Managing Director from Manager (Personnel & Administration).
- M12 - Copy of the Minutes of the Board Meeting held on 07-03-2008.
- M13 - Copy of CMD's Order No. 25/2010 dated 26-05-2010.

नई दिल्ली, 1 मार्च, 2011

का.आ. 855.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिन्दुस्तान कॉपर लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम व्यायालय, जयपुर के पंचाट (संदर्भ संख्या 8/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 28-2-2011 को प्राप्त हुआ था।

[सं. एल-43011/1/2008-आई आर (एम)]
जोहन तोपनो, अवर सचिव

New Delhi, the 1st March, 2011

S.O. 855.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), (Ref. No. 8/2008) of the Central Government Industrial Tribunal/Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the

management of Hindustan Copper Ltd. and their workmen, which was received by the Central Government on 28-2-2011.

[No. L-43011/1/2008-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

Present: Shri. N. K. PUROHIT, Presiding Officer

I.D. 8/2008

Reference No.L-43011/1/12008-IR(M)

Dated : 4-4-2008

General Secretary

Rashtriya Copper Mazdoor Congress
E-525, 111 B, Khetri Nagar,
Distt : Jhunjhunu.

V/s

The General Manager

Hindustan Copper Ltd. Khetri Nagar,
KCC, Distt: Jhunjhunu.

AWARD

(28-1-2011)

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-section 1 and 2(A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following Industrial dispute to this tribunal for adjudication which runs as under:-

“Whether the action of the management of Hindustan Copper Ltd., Khetri Copper Complex, Khetri Nagar through General Manager in not giving the benefits of job evaluation of Smelter Man ‘B’ category to Shri Hariom Sharma for the period from 4-10-76 to 17-2-79 is justified? If not, what relief the workman is entitled to and from which date?”

2. The applicant union in its statement of claim has pleaded that the workman was working as smelter man ‘D’ category since 31-12-74. On 4-10-76 he was authorized by the management of HCL to work against Smelter man ‘B’ category till Shri Siddqqi who was suspended does not come back to his duties. The union has further pleaded that the workman had worked as such under job code no.120404 against the category of Smelter man ‘B’ from 4-10-76 to 17-2-79. But the management did not give him the benefit of job evaluation of Smelter Man ‘B’ while he had worked as smelter man ‘B’ during said period whereas such benefit has been given to other workers. It has also been pleaded that the workman repeatedly demanded the benefits of job evaluation of

Smelter Man 'B' category for the said period but the same has been denied without any justifications.

3. The non-applicant in written counter has averred that the workman was promoted as Smelter Man 'B' vide order dated 14-2-79 on the basis of selection through interview and he joined on the said post on 17-2-99. Prior to this he was working as smelter man 'D'. Shri Siddqqi who was working as smelter man 'B' was placed under suspension therefore, the workman was authorized only to work against the post of Smelter Man 'B' from 4-10-76 to 4-1-77. The non-applicant has further averred that the workman was allowed to officiate on the said post while his designation was smelter man 'D' and for this authorizations he was paid officiating allowance therefore, he is not entitled for the benefit of job evaluation of smelter man 'B' category. The benefits of job evaluation had already been given to the applicant in the year 1984-85.

4. In rejoinder, apart from reiterating earlier averments made in its claim statement the union has further pleaded that job evaluation of the workman could be done on the basis of his performance as smelter man 'B' during period 4-10-76 to 17-2-79. It has been denied that benefits of job evaluation were given to the workman in the year 1984-85. It has also been denied that in place of Mr. Siddqqi another regular smelter man 'B' was posted on the smelter man 'B'.

5. In the evidence, on behalf of the applicant union the affidavit of the workman Shri Hariom has been submitted who was cross-examined by the non-applicant's representative. The non-applicant did not examine any witness in rebuttal of the union's evidence.

6. I have heard both the parties and have scanned the record.

7. The learned representative for the applicant Union contended that the workman had worked as smelter man 'B' during period 4-10-76 to 17-2-79 under job code no.120404. He did not work as smelter man 'D' during the said period therefore, as per job evaluation scheme he was entitled for job evaluation basis of his work as smelter man 'B'. He has also drawn my attention towards recorded notes of the meetings of job evaluation on the implementation committee dated 8-8-85 whereby job evaluation benefit were given to other workmen. It has been contended that there is no such evidence on record that later on in place of Sh. Siddqqi some other person in the category of Smelter Man 'B' was posted and the workman did not work up to 17-2-79.

8. Per contra, the learned representative for the non-applicant submitted that the union has raised the dispute after 30 years on account of this sole ground the claim deserves to be rejected. He has also submitted that the union has demanded job evaluation not the officiating

allowance. The workman was only authorize to work against the post of smelter man 'B' in place of Shri A.N. Siddqqi, Smelter Man 'B' who was placed under suspension, in addition to his routine jobs and he was paid officiating allowance up to 4-6-1977. Since the applicant has not denied the facts pleaded in reply, the same may be deemed to be admitted. Therefore, the workman is not entitled for the benefit of job evaluation. Moreover the job evaluation benefits had already been given to the concerned persons including workman in the year 1985-86. It has also been submitted that the workman has been promoted as junior manager and dispute has been raised by him after his promotion.

9. I have given my thoughtful consideration to the rival contentions canvassed by the representative of both the sides and have scanned the record.

10. The questions which fall for consideration are as to :-

- I. Whether the workman had worked against the post of smelter man 'B' for the period from 4-10-76 to 17-2-79?
- II. Whether the workman is entitled for the benefits of job evaluation of smelter man 'B' category for the said period?

11. Indisputably, the workman was appointed as smelter man 'D' in the year 1974 and he was promoted on the post of Smelter Man 'B' and joined on the said post on 17-2-79. It is also not in dispute that Smelter Man 'B' Shri Siddqqi was placed under suspension and the workman had worked against the post of Smelter Man 'B' w.e.f. 4-10-76. The union's contention is that the workman had worked as such from 4-10-76 to 17-2-79 whereas the non-applicant has pleaded that the workman was authorized to work as Smelter Man 'B' from 4-10-76 to 4-1-77 and after 4-1-77 some other Smelter Man 'B' was posted on the said post.

12. The workman has deposed that he had worked as Smelter Man 'B' till he joined as regular Smelter Man 'B' w.e.f. 17-2-79. The non applicant has not rebutted the evidence of the workman and has not adduced any oral or documentary evidence to show that the workman had worked against the post of Smelter Man 'B' from the period 4-10-76 to 4-1-77 only. Therefore, there is no reason to disbelieve the version of the union that the workman had worked against the post of Smelter Man 'B' during said period.

13. Now, the next question for consideration is that whether the workman is entitled for the benefits of job evaluation for the period 4-10-76 to 17-2-79.

14. The applicant union has produced copy of the record notes of meeting of job evaluation implementation committee held on different dates during the period

November, 1984 to August, 1985 between management and representative of the recognized union. It reveals from the said proceedings that benefit of job evaluation was given to vehicle drivers, helpers, blaster Assistant etc.

15. The applicant union has produced copies of representations said to be submitted by the workman for giving him the benefits of job evaluation. In representation dated 17-9-03 he has stated that while he was working as Smelter Man 'D'; he was authorized to perform the work of Smelter Man 'B'. It has also been stated that he was given the benefit of job evaluation for the post of Smelter Man 'D' whereas he was to be given the benefit of job code 120404 for the period 4-10-76 to 16-2-79. Thus, it has been admitted by the workman that benefit of job evaluation for the post of Smelter Man 'D' had already been taken by him. Apart this on perusal of the letter of the Dy. Manager (Smelter) letter dated 4-10-76 sent to the workman which is an admitted document, it reveals that the workman was authorized to work in place of Shri A. N. Siddqqi in addition to his normal routine job, till such date Shri Siddiqqi joins the plant. It has been categorically mentioned in the said letter that the workman would be entitled for charge allowance/honorarium as per rules of the company in case the period is for more than 30 days. It has also been mentioned that authorizations would not on any way establishes his claim for future vacancy of Smelter Man 'B'.

16. Thus, it is evident from the above letter dated 4-10-76 that he was only authorized to perform the work against the post of Smelter Man 'B' in addition to his routine work of Smelter Man 'D' and for that officiating allowance was to be paid to him w.e.f. 4-10-76.

17. The Workman has stated that officiating allowance was not given to him but there is no such pleading in claim statement. Moreover, it is not believable that despite non payment of said allowance as per order dated 4-10-76, he did not claim officiating allowance payable to him till industrial dispute was raised by the applicant union in the year 1996. It is not the case of the applicant union that both benefits i.e. benefit of officiating allowance and benefit of job evaluation were to be given to the workman for performing job against the post of Smelter Man 'B'. It is also not the case that the workmen to whom job evaluation benefits said to be given in the year 1984-85, were also authorized to work against any post and officiating allowance was payable to them. Therefore, the contention on behalf of applicant union that instead of officiating allowance, the benefit of job evaluation was to be given to the workman is not sustainable and claim of the applicant union deserves to be rejected.

18. Apart this dispute regarding the claim for benefit of job evaluation for the work done against the post of Smelter man 'B' category for the period 4-10-76 to 17-2-79 has been raised in the year 2006. There is nothing on record

to explain such inordinate delay. There was no challenge at the relevant point of time. Thus, the claim of applicant deserves to be rejected on ground of inordinate delay and laches also.

19. In view of above discussions, the action of the non-applicant in not giving the benefits of job evaluation of Smelter Man 'B' category to Shri Hariom Sharma for the period from 4-10-76 to 17-2-79 is not unjustified. Resultantly, the workman is not entitled for any relief. The reference under adjudication is answered accordingly.

20. Award as above.

N. K. PUROHIT, Presiding Officer

नई दिल्ली, 1 मार्च, 2011

का.आ. 856.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भिलाई स्टील प्लाट भिलाई के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 37/2001) को प्रकाशित करती है जो केन्द्रीय सरकार को 28-2-2011 को प्राप्त हुआ था।

[सं. एल-29011/60/2000-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 1st March, 2011

S.O. 856.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), Ref. 37/2001 of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bhilai Steel Plant Bhilai and their workman, which was received by the Central Government on 28-2-2011.

[No. L-29011/60/2000-IR(M)]
JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/37/2001

PRESIDING OFFICER : Shri Mohd. Shakir Hasan

The Secretary,
Pragatisheel Mazdoor Union,
Opp. 40 Tahsil Office,
PO Dalli Rajhara,
Durg (M.P)

... Workman

Versus

The General Manager (Mines),
Bhilai Steel Plant, Bhilai (M.P)

... Management

AWARD

Passed on this 25th day of January, 2011

1. The Government of India, Ministry of Labour vide its Notification No. L-29011/60/2000/IR(M) dated 2-2-2001 has referred the following dispute for adjudication by this tribunal:-

“ Whether the denial of management of Bhilai Steel Plant to departmentalize Shri Jeorakhan, S/o Shri Manglu, B.F.266, as DPR(U) after the amendment of his date of birth from 27-5-40 to 27-5-46 vide order No. IOC/CF/SSS/Raj/98/523 dt. 15-5-98 is justified? If not, to what relief Shri Jeorakhan is entitled ?”

2. The case of the Union/workman in short is that the workman was working as raising mazdoor under Shramik Sahkari Samiti (Cooperative Society) (in short SSS Society) in the captive mines of Bhilai Steel Plant who was Principal employer. There was a settlement between the Principal Employer and the Union (Annexure A) whereby it was agreed that all those employees working under different contractual agencies as on 30-10-95, whose age is found less than 50 years and are physically fit, will be taken into direct employment as D.P.R.Mazdoor and those who are found more than 50 years or more will be retained under S.S.S.Society. It is stated that his date of birth was wrongly recorded as 27-5-40 instead of 27-5-46 and therefore he was retained in the SSS Society and was not departmentalized w.e.f. 30-5-96 alongwith other workers. On efforts his date of birth was corrected and amended on the basis of Form B as 27-5-1946 vide order No. IOC/CF/SSS/Raj/98/923 dated 15-5-98 (Annexure-B) but the benefits were denied though the mistake was of the management and hence the Industrial dispute. It is also stated that the date of birth of several others were amended by the non-applicant even after 14 years and they were subsequently absorbed as DPR workers but he was deprived from the same benefit. It is submitted that the order be passed for departmentalization with retrospective effect from 30-5-1995 with all benefits.

3. The management appeared and filed Written Statement in the reference. The case of the management, interalia, is that it is admitted that a tripartite settlement was signed on 14-11-95 between the non-applicant Management and CMSS Union over the issue of departmentalization of contract works of Iron Ore Complex. There was selection criteria for taking into direct employment that the workman shall not be more than 50 years of age as on 1-11-95 subject to his medical fitness. Due weightage was given for educational qualification. The workman was employed in the SSS Society. It is denied that his date of birth was wrongly recorded in the SSS Society. There was no relationship of employer and employee. His date of birth was amended on his own request on the basis of Form B Register maintained in accordance with the Mines Act 1952. It was not the mistake

of non-applicant management rather it was the mistake of his previous employer. Since the workman did not fulfill the criteria of age at the time of departmentalization, his name was not considered. It is submitted that the workman is not entitled for departmentalization with any monetary benefit.

4. On the basis of the pleadings of both the parties, the following issues are framed for adjudication-

I. Whether the workman is entitled for departmentalization after amendment of his date of birth?

II. Whether the workman is entitled to receive all benefits w.e.f. 30-10-1995 ?

III. To what relief, if any, the workman is entitled?

5. On the basis of the pleadings of both the parties the following facts appears to have been admitted.

1. the workman was working under SSS Society in the captive mines of Bhilai Plant.

2. A tripartite settlement was signed on 14-11-95 between the non-applicant management and the CMSS over the issue of departmentalization of contract workers.

3. The selection criteria of DPR Mazdoor was that the contract worker shall not be more than 50 years of age subject to his medical fitness.

4. His date of birth was subsequently amended on the basis of Form B Register which was maintained in accordance with the provisions of Mines Act, 1952 and amended order of date of birth was passed on 15-5-98. He did not fulfill the criteria of age at the time of departmentalization and as such his name was not considered.

6. Issue No. I

On the basis of admitted facts, it is clear that his date of birth was corrected by the management as 27-5-46 vide order dated 15-5-98 which is filed by both the parties and are marked as Exhibit W/1 and at the same time as Exhibit M/3 on behalf of the management. This clearly shows that on cut out date i.e. on 30-10-95, the age of the workman was 49 years and five months and as per tripartite settlement he was within the age limit for departmentalization but his date of birth was not correct at that very time. As such he was deprived from departmentalization.

7. Now the very limited question is as to whether it was the liability of the workman to see his date of birth at the time of departmentalization or it was the liability of the management to verify the documents regarding age before considering departmentalization of the contract workers. Another point is also that other date of birth was corrected

later and benefit was given or not. According to workman, the management had corrected other workers subsequently and they had been departmentalized later but that benefit is denied to him inspite of his efforts. On the other hand, the management case is that the workman had not made any effort through out the entire period and no other workman was subsequently departmentalized.

8. Now let us examine the evidence adduced by the parties. The workman Jivrakh is examined in the case. He has stated that his date of birth was corrected on the basis of Form B register (Under Mines Act 1952). It is true that Form-B register is to be maintained by the non-applicant under Mines Act, 1952 of all employees who ever worked under the mine or above the mine. Form B register is a document of the non-applicant. As such it appears that it was the liability to verify the age before departmentalization of the management. This witness has further stated that the delay in correction of age was due to management's delayed action. He has stated that in other cases, the date of birth were amended later and they were departmentalized subsequently. The workman has filed the orders of the corrections of date of birth of other cases and thereafter the order of their departmentalization which are Annexure B/1 and B/2. Annexure B/1 shows that the date of birth was corrected of the workmen namely Rameshwar and 24 others vide order dated 30-11-96 and they had been departmentalized vide order dated 23-4-98. This clearly shows that others had been departmentalized later but the workman was denied such benefit even he was within the age limit on the cut out date.

9. On the other hand, the management has also adduced oral and documentary evidence. Management witness Shri Mahadeo is Jr. Manager (P.MHQ) in Bhilai Steel Plant. He has denied in his evidence that there was any mistake on the part of this employer. He has denied the relationship of employer and employee. He has stated that Since the workman did not fulfill the criteria of age at the time of departmentalization his name was not considered. He has stated that he had seen amended date of birth of the workman on the record. He has stated that the departmentalization was done once only. This fact is contradicted by Annexure B/2 which is the order of the management. He has denied that again departmentalization was done on 23-4-98 whereas this fact is contradicted by the documentary evidence. This shows that this witness is not trust worthy as his evidence is contradictory from the documentary evidence.

10. The management has filed documents which are admitted by the workman. Exhibit M/1 is the settlement. The settlement shows that the main features of the selection criteria as DPR was the age limit which should not be more than 50 years as on 1-11-95. This shows that the workman was within the age for departmentalization on the basis of Form B of which the non-applicant

management was custodian. The liability appears to be of the management to verify the same from his own record before departmentalization. More over it is also clear that non-applicant corrected the date of birth of others and subsequently they were departmentalized but the workman is denied of such benefit.

Exhibit M/2 is the application dated 18-2-98 of the workman to the management for removing error. Thereafter the management amended the order which was passed on 15-5-98 and corrected the date of birth as 27-5-1946 (Exhibit M 3). Exhibit M/4 & M/5 are the Form B register of Kohan Iron Ore, Mine and Dalli Mine respectively. These documents are of the management and it was the liability of the management to verify the same before denying the benefit of departmentalization. Exhibit M/6 is the application dated 15-5-98 of the workman which is filed by the management. The said document is admitted by the workman. This shows that the workman did effort and claimed for departmentalization after correction of age. The said application further shows that the authority directed to examine and submit compliance report but thereafter no action was taken by the management though he was fulfilling the criteria of departmentalization in view of the settlement. Thus considering the entire evidence, it is clear that the workman is entitled for departmentalization after amendment of his date of birth w.e.f. 15-5-98. This issue is decided in favour of the workman and against the management.

12. Issue No. II and III

On the basis of discussion made above, it is clear that the workman is entitled for departmentalization w.e.f. 15-5-1998 on the date when his date of birth was corrected specially because other workers whose date of birth were corrected thereafter and had been departmentalized (Annexure B/2). Since the workman is now superannuated from the service and therefore he is entitled to get all monetary benefits from 15-5-1998 till on his reaching date of retirement as if he was departmentalized on the said date. He is also entitled retiral benefits in accordance with law. Thus the management is directed to pay wages with all other benefits from 15-5-98 of D.P.R. unskilled till he attained the age of superannuation along with retiral benefits within two months from the date of notification of award. Accordingly both the issues are decided in favour of the workman and against the management and the reference is answered.

13. In the result, the award is passed without any costs.

14. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer